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Situation of human rights in Myanmar**

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, in accordance with paragraph 6 of General Assembly resolution 63/245.

* A/64/150.

** The present report was submitted after the deadline so as to include the most recent developments.

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Report of the Special Rapporteur on the situation of human rights in Myanmar

Summary

The present report is submitted pursuant to General Assembly resolution 63/245 and Human Rights Council resolution 10/27. It should be read in conjunction with the report of the Special Rapporteur to the Human Rights Council at its tenth session (A/HRC/10/19), since it focuses mainly on the human rights developments in Myanmar since that report.

The trial of Aung San Suu Kyi was the most significant event of the period under review. The additional 18-month house arrest bars her from actively participating in the 2010 elections. The Special Rapporteur considers that the continuation of her house arrest is a blow to the Government's seven-step road map to democracy and regrets that the Government of Myanmar missed another opportunity to prove its commitment to hold inclusive, free and fair elections.

The report concentrates on human rights protection issues. In particular, it highlights the situation of prisoners of conscience, their right to a fair trial and due process of law and conditions of their detention; as well as freedom of expression, assembly and association in the context of the upcoming elections in 2010. It continues with a review of internal conflicts, the protection of civilians, discrimination and the need for humanitarian assistance.

The Special Rapporteur reiterates his recommendation of four core human rights elements: a review of national legislation in accordance with the new Constitution and international obligations; the progressive release of prisoners of conscience; the reform of the armed forces to ensure respect for international human rights and humanitarian law, including training; and the establishment of an independent and impartial judiciary. Since Myanmar is party only to the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, the Special Rapporteur strongly recommends that it accede to the other core international human rights instruments.

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 63/245 and Human Rights Council resolution 10/27. It should be read in conjunction with the report of the Special Rapporteur to the Human Rights Council at its tenth session (A/HRC/10/19), since it focuses mainly on the human rights developments in Myanmar since that report.

2. During the period under review, the Special Rapporteur travelled to Myanmar from 14 to 19 February 2009 and visited Kayin State. The details of the mission were reflected in the report to the Human Rights Council (ibid.). The Special Rapporteur had the intention to travel for the third time to Myanmar prior to the finalization of the present report. He proposed to the Government to arrive on 5 July and leave on 13 July 2009. The Government of Myanmar responded that it agreed in principle to the visit, but that the dates were not convenient owing to a prior engagement. Subsequent to the Secretary-General's visit to Myanmar on 3 and 4 July 2009 and in the spirit of cooperation, the Special Rapporteur reiterated his request for a visit in the first week of August. The Government of Myanmar replied that the proposed timing was not convenient and that mutually convenient dates could be fixed before the end of 2009. Thus, the present report is based on information received since the last visit of the Special Rapporteur to Myanmar in February 2009. He intends to travel to Myanmar in November/December, before finalizing his report to the Human Rights Council.

3. The report focuses on the major human rights challenges before the national elections in 2010, outlines the humanitarian situation in the various states and contains a call for urgent assistance in providing the basics, including food, to populations in need.

4. In discharging his mandate, the Special Rapporteur is in regular contact with the Secretary-General's Special Adviser on Myanmar, Ibrahim Gambari. The Special Rapporteur would like to thank the Office of the United Nations High Commissioner for Human Rights for all assistance provided to him by the Headquarters, New York Office, and the South-East Asia Regional Office.

II. Methodology and activities of the Special Rapporteur

5. While the Special Rapporteur announced in his reports to the Human Rights Council (A/HRC/7/24, A/HRC/10/19) and to the General Assembly (A/63/341) that his primary task was to cooperate with the Government in the realization of the human rights of the people of Myanmar, he also stated that if after some time, there was no sign of any result in the horizon, he might consider changing strategy. In this respect, he has recommended four core human rights elements to be completed before the elections in 2010. However, since he was not invited by the Government to travel to Myanmar in July/August, he could not discuss the status of implementation of these core human rights elements with the relevant authorities and has not received any reports from the Government on their implementation status.

6. During his visit in February 2009, the Special Rapporteur visited the Kayin State. His findings were included in his report to the Human Rights Council (A/HRC/10/19).

7. On 14 May 2009, the Special Rapporteur issued a press release expressing serious concern over the unlawful detention of Aung San Suu Kyi and her transfer to Insein prison, and called for her unconditional release. On 16 June, the Special Rapporteur together with four other special procedure mechanisms: the Working Group on Arbitrary Detention, the Special Rapporteurs on independence of judges and lawyers; on freedom of opinion and expression; and on human rights defenders, issued another press release urging a fair and open trial for Aung San Suu Kyi. On 11 August, together with those four special procedure mechanisms, he issued a press release deploring the conviction of Aung San Suu Kyi.

III. Human rights issues

8. Myanmar is party to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. As a State Member of the United Nations, Myanmar is also bound by the Universal Declaration of Human Rights and subsequent declarations adopted by the General Assembly.

9. In November 2008, the Committee on the Elimination of Discrimination against Women examined the periodic report of Myanmar. In its concluding observations (CEDAW/C/MMR/CO/3), the Committee noted that "various provisions in the new Constitution may be incompatible with the Convention", including paragraph 8 of the Constitution which includes a prohibition of discrimination on the basis of sex in the appointment of Government posts or duties, but adds that "nothing in this section shall prevent appointment of men to the positions that are naturally suitable for men only". Further, the Committee called upon the authorities in Myanmar "to formulate organic laws which would make the Constitution fully compatible with the Convention, review all the existing domestic laws that are not in compliance with the Convention and formulate new laws that would ensure the practical application of gender equality".

10. That observation and the Committee's call reinforce the Special Rapporteur's first core human rights element, which recommends that the Government of Myanmar revise domestic laws, which are not in compliance with the new Constitution and/or Myanmar's international human rights obligations.

11. The Committee has requested the Government to provide, within one year, by November 2009, written information on the steps taken to implement the recommendations in paragraphs 29 and 43 of its concluding observations (ibid.), which require, inter alia, "to accelerate women's full and equal participation in public and political life, in particular at high levels of decision-making"; and "to urgently eliminate all forms of violence and discrimination against women in northern Rakhine State".

12. On 20 July 2009, at the forty-second Association of South-east Asian Nations (ASEAN) Ministerial Meeting in Phuket, Thailand, the terms of reference for an ASEAN intergovernmental commission on human rights were endorsed. The Intergovernmental Commission is to be launched during the fifteenth ASEAN Summit in October 2009. The Special Rapporteur welcomes this development at the regional level and hopes that the Intergovernmental Commission will be enabled by the ASEAN Member States to efficiently carry out its primary task of promoting and

protecting human rights and fundamental freedoms of the people of ASEAN countries, including Myanmar.

13. Article 1.6 of the terms of reference for the Intergovernmental Commission states as one of its purposes "to uphold international human rights standards as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, the international human rights instruments to which ASEAN Member States are parties". Article 2.1 (e) defines its principle as "respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice", and article 2.1 (f) names as a principle "upholding the Charter of the United Nations and international law, including international humanitarian law, subscribed to by ASEAN Member States". Part of its mandate is "to obtain information from ASEAN Members States on the promotion and protection of human rights" (art. 4.10).

14. With the launching of the Intergovernmental Commission in October 2009, Myanmar will be bound also at the regional level to respect its international human rights obligations.

15. As the Special Rapporteur has repeatedly mentioned, the situation of human rights in Myanmar remains serious and has unfortunately even worsened in some areas and needs to be addressed in a prompt and efficient manner. In this regard, he has recommended four core human rights elements to the Government to implement before the elections in 2010. During his visit to Myanmar in February 2009, he discussed the implementation of the core elements with the relevant authorities. His interlocutors were all receptive. The Attorney-General mentioned that the existing 380 laws were sent to the Ministries concerned to check compliance with the new Constitution and Myanmar's international obligations. The Chief Justice accepted to engage with the Special Rapporteur on the independence of judges and lawyers. The Minister for Home Affairs said that he would consider the recommendation regarding the progressive release of prisoners of conscience. Human rights training for armed forces and police, as a step towards institutional reform, was also welcomed by the responsible authorities of the two forces.

16. Since the Special Rapporteur did not have the possibility to return to Myanmar, he has not been able to follow up directly with his interlocutors and has not received any progress report on the implementation of these recommendations. However, the request of the Special Rapporteur on the independence of judges and lawyers to visit Myanmar to engage with the Chief Justice was not honoured. To date, only 29 prisoners of conscience were released on 21 February 2009. The Special Rapporteur has received reports that many other prisoners of conscience have been arrested. Also, the situation of civilians in areas of armed conflict has deteriorated.

A. Situation of prisoners of conscience, conditions of detention, the right to fair trial and due process of law

17. The period under review was first marked by the harsh long sentences, ranging from 24 to 104 years, given to more than 400 prisoners of conscience in the last quarter of 2008.

18. The second major development concerned Aung San Suu Kyi, who was expected to be released before the end of May 2009, but instead was transferred to Insein prison on 14 May. She was brought before a special court charging her under article 22 of the State Protection Law, which provides for "any person against whom action is taken, who opposes, resists or disobeys any order passed under this Law shall be liable to imprisonment for a period of up to three years, or a fine of up to five thousand kyats, or to both". The new charges were in connection with the intrusion of an American citizen into the residence where she was detained under house arrest. On the same day, the Special Rapporteur issued a press release in which he stated that "since her (Aung San Suu Kyi's) house is well guarded by security forces, the responsibility for preventing such intrusions, and alerting the authorities, lies with the security forces and not with Aung San Suu Kyi and her aides". He continued "in order to ensure national reconciliation and democratic transition, to which the Myanmar leadership has committed itself, all 2,156 prisoners of conscience currently detained by the authorities should be released before the 2010 elections".

19. In the initial phase of the trial, except at two occasions on 20 and 26 May 2009, when a selected number of diplomats, including the United Nations Resident Coordinator, and journalists were invited to attend the court hearings, Aung San Suu Kyi's trial was conducted behind closed doors. On 16 June 2009, the Special Rapporteur, together with four other special procedure mechanisms, namely the Working Group on Arbitrary Detention, the Special Rapporteurs on the independence of judges and lawyers, on freedom of opinion and expression, and on human rights defenders, issued another press release urging a fair, independent and open trial for Aung San Suu Kyi.

20. Subsequently, a number of diplomats were invited to attend the court hearings on 24, 27 and 31 July 2009.

21. The prosecution was allowed to call 14 witnesses, mainly policemen. Only two of Aung San Suu Kyi's four proposed witnesses were allowed to testify. She was never allowed to meet with her lawyer in private.

22. On 11 August 2009, Aung San Suu Kyi was convicted and, sentenced to three years of imprisonment with hard labour, commuted to 18 months of house arrest. On the same day, the Special Rapporteur and the Working Group on Arbitrary Detention, the Special Rapporteurs on freedom of opinion and expression and on human rights defenders issued another press release stating that "the charges laid against the leader of the National League for Democracy and Nobel Peace Prize laureate were itself in violation of international human rights law. The court was not independent, judicial guarantees were disregarded, and charges under the State Protection Act were unsubstantive". The Special Rapporteur considers that this unfortunate sentence is a blow to the seven-step road map to democracy, and unless the Government overturns this decision and releases Aung San Suu Kyi and all other prisoners of conscience to enable them to participate freely in the elections in 2010, the elections will not be considered free, fair or inclusive.

23. In the past, the Special Rapporteur had called for Aung San Suu Kyi's release from detention, which is in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights. The State Protection Law (1975), under which she was initially charged in 2003, provides for a maximum of five years' detention, and the extension of her house arrest in 2008 was also illegal under the Myanmar law.

24. The Special Rapporteur has received alarming reports on the health conditions of some 136 prisoners who do not receive proper medical treatment or medication. Unfortunately, Salai Hla Moe, suffering from hepatitis and stomach swelling, passed away on 12 May 2009 owing to a lack of adequate medical care in Myingyan prison. He was the 140th prisoner of conscience since 1998 who passed away in prison because of health problems. Htay Lwin, suffering from tuberculosis, passed away in Mandalay prison on 28 December 2008. The authorities must ensure that each death in detention is investigated, accountability is established and the families are informed.

25. Most prisoners of conscience rely on their families for medication and food supplies. More than 600 prisoners have been reported to have been transferred to remote prisons far from their family houses. This makes it more difficult, sometimes impossible, for the families to ensure regular visits. This not only affects the morale of the prisoners and their families, but it also has physical consequences for the prisoners not receiving their regular medication. The Special Rapporteur has received information that even the medicine prescribed by prison doctors is sold to the inmates. Those who do not have the financial capacity to pay for the medicine are of course at risk of never recovering from their health problems.

26. Some 12 prisons in the country are reported to have no prison doctors, and some do not even have a health-care service. The capacity of prison dispensaries or hospitals, wherever they exist, is said to be insufficient compared to the number of detainees. According to information received, Insein prison, with more than 10,000 detainees, has only three medical doctors.

27. The Special Rapporteur has recommended as the second core human rights element, the progressive release of all prisoners of conscience, prioritizing those with health problems.

28. The Special Rapporteur has also received disturbing reports regarding the harsh conditions of detention, including solitary confinement, forced labour, shackling, and ill-treatment of prisoners, in particular during the interrogation phase. In this regard, he has been informed that Sandar, suffering from heart disease and hypertension, is in solitary confinement in Myingyan prison without receiving medical treatment. Min Ko Naing, leader of the 88 Generation Students, is said to be in solitary confinement in Kengtung prison. He is suffering from severe eye problems and is reportedly not receiving any treatment. Hkun Htun Oo, leader of Shan Nationalities League for Democracy, is said to have worsening diabetes and to be suffering from high blood pressure and prostate problems. He is detained in Puta-O prison, where his cell is reportedly so small that he cannot move around. Hla Myo Naung, a leading member of the 88 Generation Students, has lost sight in one eye and is said to be at risk of losing the other eye. He is detained in Mytkyina prison, which reportedly has no doctors. The list of those in need of urgent medical treatment is long. According to reliable reports, some 25 prisoners of conscience are being held in solitary confinement.

29. The Special Rapporteur would like to reiterate to the Myanmar authorities the need to respect the international Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolutions 663 C (XXIV) and 2076 (LXII), covering all aspects of imprisonment and setting minimum acceptable

standards such as medical services, food and water, family visits, and the submission of complaints.[1]

30. As stated in his report to the Human Rights Council (A/HRC/10/19), while visiting the dispensary and talking at random with the inmates at Insein prison in February 2009, the Special Rapporteur discovered a shackled prisoner who had tried to run away from forced labour in a military compound in Kayin State. The prison authorities admitted having some 30 to 40 shackled prisoners in Insein.

31. In some prisons, prison governors run the premises and treat prisoners as they wish, with no respect for existing rules and regulations. Urgent attention from higher authorities is required to ensure effective oversight and accountability.

32. Corresponding with family and friends and receiving visits are allowed under international standards. Prisoners should have the right to communicate freely and in full confidentiality with their visitors. There have also been reports of relatives being sentenced. Thant Zin Oo, brother of National League for Democracy (NLD) member Thant Zin Myo, who is currently serving a prison term of 19 years, was given a six-month sentence on 15 December 2008 for having read a letter to his brother during a prison visit. The letter, addressed to Senior General Than Shwe, called for safe and proper medical treatment for detainees.

33. The Special Rapporteur has been informed of new arrests and sentences given by special courts. In January 2009, Pho Phyu, a lawyer who had assisted farmers whose land had been forcibly seized by the army, was arrested and charged under the Unlawful Association Act. He was sentenced to a four-year imprisonment by a court in Magway Division. His appeal was rejected in May 2009. On 12 March 2009, six family members of monk leader U Gambira were sentenced each to five years of imprisonment with hard labour by the North Dagon Myothis Court. During March and April 2009, 10 volunteers were sentenced by a special court in Insein to two to six years of prison terms for having provided relief to victims of cyclone Nargis without the prior approval of the Government and for having spoken with the media.

34. Also, a number of lawyers were arrested for contempt of court. The Contempt of Courts Act (1926) does not identify what constitutes contempt of court, leaving it open for any interpretation. Some 11 lawyers are currently imprisoned. Senior lawyers Aung Thein and Khin Maung Shein, who have completed a four-month prison term for contempt of court, had their licences revoked on 15 May, a day after their application was filed to represent Aung San Suu Kyi.

35. In February 2009, the Special Rapporteur met in private in Insein prison with Nyi Nyi Htwe, a lawyer who had defended prisoners of conscience in the Insein special court in September 2008. During the trial, one of his clients had turned his back to the judge and when Nyi Nyi Htwe was asked to call his client to order, he had responded that he was at the court to defend his clients according to their instructions and did not have the authority to tell them how to sit. Consequently, it

[1] See also the Basic Principles for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, and Inhuman or Degrading Treatment or Punishment.

was recorded in the court report that the behaviour of the defendants and their lawyers was irresponsible. Nyi Nyi Htwe's case was sent to higher court. On 30 October 2008, he was sentenced to a six-month imprisonment under section 288 of the Penal Code. He was released on 28 April 2009. However, his law licence has been revoked. His wife is now supporting the family by selling lottery tickets. The Special Rapporteur has received information that the couple's business associates have been harassed and warned by the authorities and therefore are now reluctant to work with Nyi Nyi Htwe's wife.

36. The Special Rapporteur regrets that the independence of lawyers to practise their profession is hindered for political motivation. Moreover, those who abide by integrity and principle are often charged under the Contempt of Courts Act (1926), which does not specify what actually constitutes contempt of court, leaving it open for any interpretation and decision by higher courts. Even after serving the unfair imprisonment, the career of many of these lawyers is destroyed, since their licence is revoked and they cannot find any other job elsewhere.

37. The existence of the prisoners of conscience seriously undermines the independence of the judiciary, despite its guarantee by domestic legislation, including the Judiciary Law (2000) and the Constitution (2008). In most cases, judges operate on conclusions based on instructions from political and higher instances.

38. In terms of procedures, the law requires that the arrestee is brought before a judge within 24 hours. However, people are often detained without charges, sometimes without ever being brought before a judge, and are sometimes released without explanation. Tin Myo Win, Daw Aung San Suu Kyi's doctor, was arrested on 6 May 2009 and released on 16 May without any explanation from the authorities for his detention. Also in April 2009, five members of the Federation of Trade Unions of Burma were arrested and subsequently released without explanation.

39. In accordance with procedural law, the police have the responsibility for law enforcement, including for arrest and detention. However, military intelligence agencies participate in arrests, investigations and interrogations, and hold prisoners in army facilities, as happened on a large scale during the 2007 protests. The Special Rapporteur is concerned about the uncertain role of military intelligence, and the rise of non-formal gangs for security purposes such as Swan Ar Shin. They should not have any role in arresting people, which is against the criminal procedure and principles of due process of law.

40. The Special Rapporteur reiterates that in order to ensure free trials and due process of law, and abstain from the use of torture, the authorities should respect internationally accepted standards and principles in the areas of administration of justice, including the treatment of prisoners, the role of lawyers, the role of prosecutors, the independence of the judiciary, the presumption of innocence and the conduct of law enforcement officials.

41. The Special Rapporteur notes the importance of financial support provided by the International Committee of the Red Cross (ICRC) to families to visit their detained relatives. He invites the authorities to re-engage with the ICRC and allow it to conduct prison visits — which have been suspended since December 2005 — in accordance with its established mandate.

42. The Government is commended for maintaining the moratorium on the use of death penalty, in place since 1998.

43. In September 2008, the Government released 6 prisoners of conscience and 29 others were released in February 2009. The Special Rapporteur of course welcomes these releases, but highlights that compared with the total number of 2,160 prisoners of conscience currently in detention, these releases lack proportionality.

B. Freedom of expression, assembly and association, and the road towards the 2010 elections

44. The freedom of opinion and expression as well as the freedom of assembly and association are fundamental rights enshrined in the Universal Declaration of Human Rights and are guaranteed by international human rights treaties, including those to which Myanmar is a State party, namely the Convention on the Rights of the Child, the Convention on the Elimination of Discrimination against Women and ILO Convention No. 87 on Freedom of Association and Protection of the Rights to Organize. The new Constitution of Myanmar also provides for freedom of expression, opinion and assembly. The Preamble (para. 8) provides for justice, liberty and equality. Article 6 (d) declares that the basic principles of the Union are the flourishing of a genuine, disciplined multi-party democratic system. Article 406 (a) and (b) state that a political party shall have the right to organize freely and to participate and compete in elections. Article 354 states that every citizen shall be at liberty to express and publish freely their convictions and opinions, to assemble peacefully without arms and to form associations and organizations.

45. The General Assembly, in its resolution 63/245, expressed concern at the continuing imposition of severe restrictions on the exercise of fundamental freedoms such as freedom of movement, expression, association and assembly, in particular the lack of an independent judiciary and the use of censorship; and strongly called upon the Government of Myanmar to lift all restraints on the peaceful political activity of all persons by, inter alia, guaranteeing freedom of peaceful assembly and association and freedom of opinion and expression, including for free and independent media, and to ensure unhindered access to media information for the people of Myanmar.

46. In practice, all publications in Myanmar are subject to censorship by the Press Scrutiny and Registration Board of the Ministry of Information. Other censorship boards exercise control in the field of arts and culture. Journalists exercise a high level of self-censorship or otherwise risk seeing their licenses revoked, as has happened to many journals and magazines. The coverage of Aung San Suu Kyi's trial demonstrates the lack of space for the media to function independently and professionally. The official State media transmitted the official line while other journalists were allowed access selectively when the authorities decided so. The Special Rapporteur received information that senior editors and staff of the *True News Journal* in Yangon were summoned by the Press Scrutiny and Registration Board following the distribution of a publication at Insein prison. The Board objected to the headline which appeared in the journal. Restrictions on communications were imposed during the trial, with Internet cafés and telephone lines in the neighbourhood being cut off.

47. It is reported that at present 51 journalists and media professionals are in detention for having exercised freely their profession. Often, prisoners of conscience are convicted on the basis of the Electronic Act and the Television and Video Law. In February 2009, the Special Rapporteur met in private with two prisoners of conscience, Tin Min Htut and Nyi Pu, who were convicted, inter alia, on the basis of the Electronic Act for having written an open letter to the Secretary-General.

48. During his meeting with the Attorney-General in February, the Special Rapporteur was informed that the existing 380 domestic laws were sent to the concerned Ministries for compliance checks with the provisions of the new Constitution and Myanmar's international obligations. The Special Rapporteur welcomes this important undertaking and recommends that priority attention be given to laws and orders which affect the exercise of the freedom of expression and association in view of the preparations for the upcoming elections. Some of the legislation contains broad provisions allowing misuse and arbitrary application. Under these provisions, exercising one's right to freedom of expression and association can risk up to 20 years of imprisonment. The Unlawful Association Act (1908) gives the exclusive power to the President of the Union to declare an association unlawful. Members of unlawful association or those who attend meetings of such associations, or contribute or receive or solicit any contribution for the purpose of such associations or in any way assist the operations of such association can be sentenced to 2 or 3 years of imprisonment.

49. The Electronic Transaction Law provides for up to 15 years of imprisonment for having used electronic transactions detrimental to the security of the State, the prevalence of law and order, community peace and tranquillity, national solidarity, national economy or national culture. Moreover, creating, modifying or altering information or distributing information created, modified or altered by electronic technology which may be detrimental to the interest of or to lower the dignity of any organization or any person is punishable with a maximum of 5 years of imprisonment.

50. The Special Rapporteur hopes that the Emergency Provisions Act (1975), the Television and Video Law (1985), the Motion Picture Law (1996), the Computer Science Development Law (1996) and the Printers and Publishers Registration Act (1962) will also be revised and amended accordingly.

51. To date, the electoral law governing the elections in 2010 has not been made public. It is urgent to ensure proper registration of political parties and to allow for adequate campaigning throughout the country. Free and fair elections also require the undertaking of civic education to ensure informed and educated voters, especially in view of the fact that no elections have been held in the country since 1990. The Committee on the Elimination of Discrimination against Women, in its concluding observations, calls upon the Government of Myanmar "to use the formulation of its new electoral law as an opportunity to include women, in accordance with the provisions on non-discrimination in its Constitution, and to increase women's political participation".

52. The independence of the judiciary and due process of the law are recognized in chapter I of the Constitution, entitled "Basic Principles of the Union". However, the overly dominant role given to the military throughout the Constitution without

effective counter-balancing and control mechanisms poses serious challenges for the protection of human rights.

53. In addition, the enjoyment of human rights could be compromised by several exception clauses contained in the new Constitution which are formulated in broad and vague terms and which allow easily found justifications. The security of the Union or prevalence of law and order, community peace and tranquility or public order and morality are frequently used as justifications for restricting rights, as in article 354 concerning the rights to freedom of opinion, expression, assembly and association as well as rights to culture and religion, and in article 376 concerning detention.

54. Under international human rights law, some fundamental rights are non-derogable and the derogation of certain rights in case of declared emergencies is clearly defined. In addition, the Special Rapporteur wishes to reiterate the principles he has outlined with regard to restrictions on the enjoyment of human rights. They shall (a) be defined by law; (b) be imposed for one or more specific legitimate purposes; and (c) be necessary for one or more of these purposes in a democratic society, including proportionality. Any limitation that does not follow these requirements and jeopardizes the essence of the right with vague, broad and/or sweeping formulas, would contravene the principles of legality and international human rights law.

55. The Constitution contains one article in chapter XIV on "Transitory Provisions" which could be seen as an open invitation for impunity and requires clarification. Article 445 states that "no proceeding shall be instituted against the said Councils (State Law and Order Restoration Council, State Peace and Development Council) or any member thereof or any member of the Government, in respect of any act done in the execution of their respective duties". This provides for blank immunity for State agents, contrary to the very essence of accountability for human rights violations.

C. International humanitarian law and protection of civilians from discrimination

56. The General Assembly, in paragraph 2 (d) of its resolution 63/245, expressed concern at the continuing discrimination and violations suffered by persons belonging to ethnic nationalities of Myanmar, and attacks by military forces and non-State armed groups on villages in Kayin State and other ethnic States in Myanmar, leading to extensive forced displacements and serious violations and other abuses of the human rights of the affected populations.

57. Myanmar has seen a large scale of population displacement of civilians, especially from the ethnic nationalities along the border areas. Owing to the ongoing fighting between the Government and Karen National Union (KNU), some 500,000 people are estimated to have been forced to leave their villages in Eastern Myanmar, while many others have fled to other countries in the region, sometimes under life-threatening conditions.

58. In the first week of June 2009, with the escalation of fighting between the Myanmar army/Democratic Karen Buddhist Army (DKBA) and the Karen National Union/Karen National Liberation Army (KNU/KNLA), some 3,500 people, mainly

women and children, were reported to have left the area of Ler Per Her internally displaced persons camp in Dta Greh Township, Pa'an District in Kayin State, to seek refuge in Thailand. These people had previously fled their villages and were living in temporary camps near the border with Thailand. It is reported that DKBA is exercising tough measures in areas vacated by KNLA units as imposing various forms of extortions of food and belongings and arbitrary taxations on civilians and enforcing forced and hazardous labour without compensation.

59. According to reports, villages are attacked on the suspicion that the inhabitants are sympathizers of KNU. Soldiers break into houses and steal food stores, burn down houses and often take the men away for forced labour as porters, and those who resist are shot dead. It is also reported that during the day when villagers are at their paddy fields, soldiers arrive and plant anti-personnel landmines around the village, which creates a risk and fear for the villagers to return home. Therefore, they have to seek refuge and hide in the jungle. It was reported recently that a power struggle between the military and an armed rebel group in Mon State resulted in the execution of four village leaders in two separate incidents on 2 and 3 April 2009.

60. It is reported that on 15 July 2009, the Shan State Army-South (SSA-S) attacked the 515th Light Infantry Battalion in Laikha, killing 11 soldiers from the Myanmar army. It is said that as retaliation and part of military operations against the insurgent armed group between 27 July and 1 August 2009, the Myanmar army deployed seven battalions to evacuate civilians from 39 villages in Laikha township and parts of Mong Kerng township in Central Shan State, resulting in the displacement of more than 10,000 people and burning down of more than 500 houses.

61. Anti-personnel landmines are frequently used by both sides to restrict the movement of populations or of troops. Captured civilians are said to be used as mine sweepers or as porters for the army in mined areas. It should be noted that risking civilians' lives as sweepers in landmined areas is not a Government policy, but a practice adopted by a number of battalions, depending mainly on the commanders. The number of casualties among civilians caused by the explosion of mines is high. Very often, children playing in the forest have also been said to be victims of such explosions. It is estimated that the casualties over the past five years have increased. In addition to Kayin State, landmine casualties have been reported in Kayah, Rakhine and Shan States.

62. The Special Rapporteur reiterates his call on both the Government and non-State actors to stop definitively the use of landmines. He urges the authorities to accede to the Mine Ban Treaty. In this connection, he encourages the international community to provide the necessary assistance to the Government for an effective landmine clearance and also provision of adequate support to the victims.

63. In February 2009, the Special Rapporteur found at random in Insein and Hpa-An prisons two inmates who had been forced to be porters for the army in Kayin State. Owing to the harsh forced labour conditions, they had tried to flee and were caught and put in jail. In this regard, the Special Rapporteur reiterates the need for the Government to fully implement Legislative Order No. 1/1999 on the Eradication of Forced Labour.

64. Another disturbing issue that continues to persist despite the Government's efforts for its eradication is the recruitment of children under the age of 18 as

soldiers. According to reliable reports, children are recruited as soldiers by both the army and non-State actors. Street children and rural school students are the most affected and targeted. There is information that in January 2009 three boys of about 13 years of age in Paletwa town in Chin State were forcibly recruited by the Lisin Army camp of Infantry Battalion 304. It is said that children who refuse to join the military are threatened and harassed.

65. In February 2007, the Government signed the Supplementary Understanding with the International Labour Organization (ILO) to establish a complaint mechanism on forced labour and the recruitment of child soldiers. Thanks to this mechanism, over 28 children have been rescued. However, officers who had recruited the children were never prosecuted, which can be interpreted as a sign of tolerance by the authorities of such practice at the commanders' and officers' level.

66. Since the ILO-established mechanism is complaint-based, its mandate is limited to addressing cases brought to its attention and does not include authority for fact-finding to look for and investigate cases of child soldiers or other forced labour. In some cases, people who lodged complaints with ILO have been victims of serious reprisal, such as Thet Wei, who was sentenced on 16 September 2008 to a two-year imprisonment with hard labour.

67. On 27 April 2009, ILO conducted a forced labour awareness-raising programme in Hpa-An, Kayin State. The participants included officials from the Kayin State and representatives from the ceasefire groups. Another session with more than 136 participants was conducted in Shan State on 7 May 2009.

68. The Special Rapporteur urges the Government to accede to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. It encourages the international community to provide assistance to the authorities in Myanmar to ensure adequate means for physical and psychological adaptation and reintegration of former child soldiers in the society as civilians.

69. The Special Rapporteur has also received cases of allegations of rape and sexual assault by military personnel. As with all allegations of serious human rights violations, proper investigations must be conducted and justice must be done and seen to be done.

70. Another issue of serious concern that the Special Rapporteur has continuously raised in his reports and oral interventions is the situation of the Muslim population in Northern Rakhine State. According to the Citizenship Law (1982), this population, despite of having lived for generations in Northern Rakhine State, is not recognized as one of the 135 national races in Myanmar. Therefore, it is not granted citizenship and is stateless. However, in order to allow them to participate in the referendum on the new Constitution in May 2008, the Government issued them temporary registration cards, which could not be used to claim citizenship.

71. In his address to the Human Rights Council at its tenth session, the Special Rapporteur noted the issuance of temporary registration cards for the purpose of participation in the referendum on the new Constitution. Legally speaking, only citizens of a State who will be governed by the State Constitution have the right to express their opinion on the adoption of that Constitution. Therefore, the Special Rapporteur highlighted that nothing could be more of a proof of citizenship than to

have the right to participate in the referendum on the adoption of the new Constitution.

72. The problem of statelessness is the root of chronic scourges endured by the Muslim population. Without any identity papers, this population needs to apply for travel permits, which are costly and cannot be obtained by everyone. Being confined to its own villages limits the possibility to have access to health care and education, to find a job, and thus to provide the basics for living in dignity.

73. Based on a local order issued in the late 1990s in Rakhine State, Muslims are required to obtain an authorization from the local authorities to get married. Since obtaining these authorizations is costly and lengthy, often the Muslims bypass the authorization and get married according to their traditions. Even though this local order is not based on any national law, those not respecting it have been prosecuted and sentenced to imprisonment.

74. The Special Rapporteur welcomes the recent judgments by the Supreme Court of Myanmar overturning several decisions of the Rakhine State court that had convicted male Muslims for cohabiting with Muslim women they were not legally married to.

75. The Rakhine State court had charged the male Muslims under section 493 of the Penal Code, which states that "Every man, who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him, and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine". According to the Criminal Procedure Code (sect. 198, para. 1), "No Court shall take cognizance of an offence falling under Chapter or Chapter XXI of the Penal Code, or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence". Therefore, the action under section 493 of the Penal Code can only be filled if the complaint is made by the aggrieved person, who, in those cases, is the woman who has been misled. However, according to Criminal Procedure Code (sect. 198, para. 2), "where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of court, make a complaint on his or her behalf". In this respect, the Rakhine State court had, at each time, ruled that since the aggrieved woman was Muslim and, according to her traditions, she could not be compelled to appear before the court, the complaint made by the public officer on her behalf was acceptable and the accused was accordingly charged and sentenced under section 493 of the Penal Code.

76. The Supreme Court overturned these judgments by ruling that the aggrieved women could have appeared before the court. Since the leave of court obtained by the public officer to act on her behalf did not meet the provisions of the Criminal Procedure Code (sect. 198), the procedural requirements for bringing an action under section 493 of the Penal Code were not met, which makes the action void ab initio and impossible to charge and convict the accused. The Special Rapporteur has received information that in a recent case, Rakhine State court has followed the Supreme Court ruling.

77. Since this population does not hold any identity cards, the newborn children are not registered, which poses a question of compliance with article 7 of the Convention on the Rights of the Child, which establishes that "the child shall be registered immediately after birth and shall have the right from birth to a name, [and] the right to acquire a nationality". Those who do obtain marriage authorization are said to be restricted to two confinements.

78. The Committee on the Elimination of Discrimination against Women, in paragraph 43 of its concluding observations, urges the Government

> "to urgently eliminate all forms of violence and discrimination against women in northern Rakhine State, and, in particular, to alleviate the heavy restrictions on the movement of residents within northern Rakhine State, especially women and girls. The Committee further urges the State party to lift the orders concerning marriage authorization and restriction of pregnancy, which violate the human rights of those women. The State party should also take effective measures to improve their access to primary health care and basic education. The State party is encouraged to continue to collaborate with the international community, especially the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Population Fund, in those efforts".

79. The number of cases of allegation of forced labour imposed on the Muslim community has considerably increased in 2009. It is said that since March 2009, the Government is building a barbed-wire fence along its border with Bangladesh. To this end, the Muslim community is required to provide work without compensation to excavate earth, raise an embankment, manufacture concrete pillars, and transport the pillars in its fishing boats to the various sections of the embankment. It is said that army forces enter people's houses in the middle of the night to collect them for the forced labour, and those who refused have been beaten.

80. In addition to the construction of the barbed-wire fence, the Muslims of Northern Rakhine State provide compulsory forced labour for the military in camp maintenance, sentry duty, portering and brick baking.

81. The Special Rapporteur has also received reliable information regarding the closure of churches in Chin State hindering the Christians from practicing their religion, and calls upon the Government to ensure that ethnic minorities are granted fundamental rights, as enshrined in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities and article 30 of the Convention on the Rights of the Child. In the light of the seven-step road map to democracy and the new Constitution, especially article 34 (freedom of religion), article 347 (equal rights before the law of any person), article 348 (no discrimination based on race, birth, religion, official position, status, culture, sex and wealth), he urges the Government to implement his first core human rights element by amending domestic laws to ensure the full enjoyment of human rights without discrimination for all people in Myanmar.

82. The Special Rapporteur urges the Government to take prompt measures to establish accountability and responsibility with regard to the widespread and systematic human rights violations reported in Myanmar. This will stop abuses, and demonstrate that serious human rights violations are not the Government's policy or a widespread practice tolerated or condoned by the Government. Non-governmental

organizations have advocated for more action from the United Nations, particularly through the establishment of a group of experts to investigate serious violations of human rights and international humanitarian law committed by all parties in internal conflicts.

D. Living conditions, sustenance and humanitarian assistance

83. The enjoyment of economic, social and cultural rights is seriously impeded by the social, economic and development conditions in the country, affecting the most vulnerable populations, including those in the remote states and those recovering from cyclone Nargis. These conditions are the result of the Government's mismanaged policies, which are further exacerbated by the impact of the global economic crisis, food insecurity, and climate change.

84. Concerted efforts and a series of measures are necessary to improve people's living conditions, in particular for the most vulnerable among them. Myanmar is privileged with rich natural resources. Reduction in the high military expenditure and an increase in the currently low budget for public services will contribute to making available affordable and accessible heath care, education, and social security coverage for the people.

85. The support from the international community, especially in addressing the urgent needs of the post-Nargis period, has been valuable and should continue. Myanmar is ranked as one of the least developed countries and receives one of the lowest levels of development aid. The drastic contrast between the worrying social, economic and development indicators and the very low level of development assistance to Myanmar needs to be addressed by the international donor community.

86. In the areas affected by cyclone Nargis, it is estimated that some 130,000 families remain without adequate homes. Shelters are in many cases of poor quality and provide limited protection from the heat and rain and are often overcrowded. Other key challenges include increased unemployment, the deep debt trap and scarcity of clean water. An estimated 240,000 people in the south-western region of the delta do not have access to fresh drinking water.

87. Some 20 volunteers, including Zarganar and Htet Htway, who were involved in the initial relief efforts, are still in prison. Two journalists, Ma Eint Khaing Oo and Kyaw Kyaw Thant, were arrested and sentenced for having volunteered to help a group of cyclone victims to visit an international organization's office for assistance after the cyclone. It is reported that more than 200 requests of visas for aid workers are pending.

88. The Special Rapporteur stresses the need for a human rights-based approach to humanitarian and development assistance and calls for deliberate efforts to engage the affected communities in this endeavour. The participation of the communities concerned in the formulation and implementation of development plans and decisions impacting their lives is essential in ensuring the effectiveness of assistance provided. The Special Rapporteur notes that through the Integrated Community-based Early Recovery Framework, the United Nations Development Programme provides a community-driven recovery strategy and structure to support the cyclone-affected communities.

89. It is reported that although Myanmar exports rice, food scarcity is an acute problem in Northern Rakhine State, Kayin State, North and East Shan State, Chin State and some areas of the cyclone-affected areas. It is estimated that 70-90 per cent of family income is allocated to purchase basic daily food, namely rice. According to reliable sources, nearly 5 million people are in need of food aid.

90. The food crisis is exacerbated by the restrictions imposed by the authorities on farmers to plant and harvest and also by arbitrary land confiscation for the purpose of growing cash crops such as tea and biofuels. Moreover, farmers were forced to purchase tea and jathroba seeds under the threat of their land being confiscated. Also, it is reported that in many areas food aid has been redirected by members of the military.

91. It is reported that in Chin State, school dropouts have doubled in the last two years since families cannot afford to send their children to school. Children are obliged to work to help their families to earn more money to afford buying basic food, namely rice.

92. On 4 June 2009, a landslide caused by heavy rains washed away a jade miners' settlement along the Uru River in Hpakant Township, northern Kachin State. Significant flooding also occurred in Hpakant town, after a water reservoir burst owing to the heavy rains. Another jade mining city, Seng Tawng and its surrounding villages, were reported to have been affected by the floods. Reports from aid agencies indicated that a total of 1,351 people were housed in informal displacement locations. Clean drinking water and sanitation continue to be a priority for the affected population, as well as access to food and adequate nutrition.

93. Northern Rakhine State is faced with the problem of shortage of employment and income-generating activities. It is reported that 68 per cent of the Muslim population does not have access to land and the source of income is mainly daily labouring jobs, which are insecure and not always available. During the rainy season, it is more difficult to find a job.

E. Developing cooperation in the context of human rights

94. The Special Rapporteur welcomes the Government's commitment expressed at the Human Rights Council to cooperate with the international community, including with the Special Rapporteur and the Human Rights Council, as the cornerstone of its foreign policy.

95. The Special Rapporteur welcomes the working relationship established between the United Nations country team and the Government human rights body. He also welcomes the one-year extension of the Supplementary Understanding between the Government and ILO signed on 26 February 2009. ILO operates, in agreement with the Government of Myanmar, a forced labour complaints mechanism, which includes complaints of underage recruitment into the military and the inappropriate use of prison labour. The Special Rapporteur encourages the Government of Myanmar and ILO to strengthen its application, particularly with regard to ensuring that all citizens are aware of the law, of the existence of the complaints mechanism and of their associated rights. It is critical that people exercising their right to complain can do so without fear of recrimination or reprisal. He also recommends that the Government review its policy regarding forced labour

used by the military and prison labour. He requests ILO to provide all technical assistance needed in this regard.

96. The Special Rapporteur also welcomes the extension of the presence of UNHCR in Northern Rakhine State, which was agreed by both parties during the visit of the High Commissioner for Refugees to Northern Rakhine State in March 2009.

97. The Special Rapporteur commends the signing of a bilateral agreement between Myanmar and Thailand on 24 April 2009 to combat human trafficking, especially of women and children, covering areas such as prevention, protection, recovery and reintegration of victims, law enforcement and criminal justice, as well as developing and implementing joint actions between the two countries. He welcomes the endorsement of the terms of reference for an ASEAN intergovernmental commission on human rights on 20 July 2009. He is hoping that the Intergovernmental Commission will be enabled by member States to efficiently carry out its primary task of promoting and protecting human rights and fundamental freedoms of the people of ASEAN countries, including Myanmar.

98. The Special Rapporteur has also highlighted the existing challenges regarding the economic, social and cultural rights and, in this respect, calls upon the international community to provide necessary resources to the United Nations and financial institutions to assist the Government of Myanmar in improving the living standard of the people of Myanmar, notably those residing outside the urban agglomerations such as the capital and Yangon.

99. The Special Rapporteur promotes the expansion of the mandate of the Tripartite Core Group to include all States requiring humanitarian assistance.

IV. Conclusions

100. **The Special Rapporteur regrets that his request to visit Myanmar was not accepted by the Government of Myanmar. He is hoping to travel back to Myanmar before the end of 2009.**

101. **Since the Special Rapporteur did not have the opportunity to discuss the progress of the implementation of the four core human rights elements, which he recommended to the Government after his first visit to Myanmar in August 2009, he reiterates them and reminds the Government that these four elements are part of its international human rights obligations, and are absolutely necessary to be completed in order for the seven-step road map to democracy to be credible and founded on internationally recognized democratic values, to which Myanmar has adhered as a State Member of the United Nations.**

102. **The Special Rapporteur remains committed to cooperation with the Government of Myanmar to assist it in improving the human rights situation of the people in the country, including the Muslims in Northern Rakhine State. However, cooperation by definition requires the other party's commitment to the joint venture. Therefore, unless the Government gives clear signals and proofs that it is seriously pursuing the ultimate goal of promoting and protecting the human rights of all people on its territory, the Special Rapporteur may doubt the Government's willingness to cooperate in this joint**

venture in realizing the political and civil as well as economic, social and cultural rights of the people.

V. Recommendations

103. In his report submitted to the General Assembly (A/63/341), the Special Rapporteur recommended that the Government implement the four core human rights elements before the elections in 2010. During the Special Rapporteur's mission to Myanmar in February 2009, the Government expressed its readiness to implement the four core elements, but their effective implementation and completion has yet to be seen. Therefore, the four core human rights elements are again included as recommendations, taking into account the developments witnessed during the mission.

104. The Special Rapporteur recommends that the Government of Myanmar:

(a) Sign and ratify the remaining core international human rights instruments;

(b) Expand the mandate of the Tripartite Core Group to include all other regions in Myanmar in need of humanitarian aid;

(c) To take prompt measures to establish accountability for the widespread and systematic human rights violations and combat the prevailing impunity enjoyed by the perpetrators;

(d) Complete the four core human rights elements indicated below before the elections in 2010.

Four core human rights elements to be implemented before the 2010 elections

1. First core human rights element: review of national legislation in accordance with the new Constitution and international obligations

105. The Special Rapporteur has recommended that the Government of Myanmar start reviewing and amending domestic laws that limit fundamental rights and contravene the new Constitution and international human rights standards. Myanmar, as a State Member of the United Nations that signed the Charter of the United Nations soon after the country gained independence in 1948, must honour its international human rights obligations, and cannot invoke provisions of its domestic law as justification for its failure to comply with them (article 27 of the Vienna Convention).

106. Any domestic law that limits the enjoyment of human rights should (a) be defined by law; (b) be imposed for one or more specific legitimate purposes; and (c) be necessary for one or more of these purposes in a democratic society, including proportionality. Any limitation that does not follow these requirements and jeopardizes the essence of the right with vague, broad and/or sweeping formulae would contravene the principle of legality and international human rights law.

107. The Special Rapporteur has identified a number of legal provisions that do not fulfil the above-mentioned requirements, and recommended that the Government start a process of review and, at the same time, stop arrests and convictions under those legal provisions, namely, the State Protection Act (1975); the Emergency Provisions Act (1950); the Printers and Publishers Registration Act (1962); the Law Protecting the Peaceful and Systematic Transfer of State Responsibility and the Successful Performance of the Functions of the National Convention against Disturbance and Opposition (No. 5) (1996); the Law Relating to the Forming of Organizations (1988); the Television and Video Law (1985); the Motion Picture Law (1996); the Computer Science Development Law (1996); the Unlawful Association Law; the Electronic Communication Law; and sections 143, 145, 152, 505, 505 (b) and 295 (A) of the Penal Code.

2. Second core human rights element: progressive release of prisoners of conscience

108. At present, there are more than 2,160 prisoners of conscience detained in Myanmar. A prisoner of conscience is a person who (a) is charged with or has been convicted for the infringement of national legislation, which impedes enjoyment of freedom of expression, opinion, peaceful assembly, association or any other human right; and (b) does not have access to a court, or is being tried by courts that lack independence and impartiality, and/or due process of law is denied. These two circumstances are against the basic human rights recognized in the new Constitution and the Universal Declaration of Human Rights. Therefore, prisoners of conscience are basically individuals whose human rights are systematically denied.

109. Given the fact that fundamental rights such as liberty and personal integrity are being affected in detention, the release of prisoners of conscience, even progressive, should start as soon as possible. Release must be without any conditions that may result in new ways of diminishing the enjoyment of human rights, such as written statements renouncing the right to political participation or campaign. On the other hand, parallel to release, immediate measures should be taken to avoid any cruel treatment, improve conditions of detention and ensure urgent medical treatment.

110. The Special Rapporteur recommends that prisoners be released in the following order of priority:

(a) Elderly prisoners;

(b) Prisoners with health problems;

(c) Prominent members of political organizations and ethnic leaders;

(d) Long-standing prisoners;

(e) Members of religious orders;

(f) Women who have children;

(g) Prisoners transferred to forced labour camps;

(h) Prisoners not convicted;

(i) Prisoners without criminal records;

(j) Prisoners held in jails remote from their homes.

3. Third core human rights element: armed forces

111. The Special Rapporteur recommends that a number of measures be adopted by the military and the police in order to improve the human rights situation in the country. In this regard, the military should:

(a) Repeal discriminatory legislation and avoid discriminatory practices, particularly in Northern Rakhine State, where a large part of the Muslim community has been deprived of citizenship, movement and other fundamental rights for many years;

(b) Refrain from the recruitment of child soldiers, and continue its policy to avoid such a practice;

(c) Forbid the use of anti-personnel landmines. In this respect, the Special Rapporteur recommends that the Government ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction. The Government has reportedly justified its failure to ratify the Convention by stating that rebels still use anti-personnel landmines. Violations of international humanitarian law by one party to a conflict is no justification for non-compliance by other parties;

(d) Respect international human rights and humanitarian law in areas affected by internal conflict, particularly in Kayin State. It is prohibited to direct attacks against civilians not participating in the hostilities or to launch indiscriminate attacks against military objectives and civilians or civilian objects. Every precaution must be taken to spare civilians and their property of the effects of the hostilities. Medical and humanitarian staff, hospitals and clinics must be respected. This includes ensuring efficient working of health providers in the conflict areas;

(e) Refrain from the use of forced labour of civilians (portering), particularly in Kayin State. In this regard, the Special Rapporteur recommends that the Government engage with ILO representatives to ensure compliance of prison labour policy with the obligations of Convention No. 29 concerning Forced or Compulsory Labour;

(f) Refrain from detaining individuals for alleged infringement of national laws that are under review according to the first core human rights element, and refrain from the ill treatment of detainees;

(g) Establish a permanent and meaningful training programme on human rights for members of the armed forces, police and prison forces, with international cooperation. In this regard, the Special Rapporteur recommends that technical assistance be requested from the Office of the United Nations High Commissioner for Human Rights.

4. Fourth core human rights element: the judiciary

112. **The Special Rapporteur stresses the lack of independency and impartiality of the judiciary in Myanmar, and recommends that a series of measures be taken. The judiciary has delivered hundreds of harsh sentences against prisoners of conscience, applying national legislation that might be contradictory to human rights standards, with disregard for judicial guarantees. The independence and impartiality of the judiciary remains an outstanding issue in Myanmar. Members of the Supreme Court are appointed by the Head of State, due process of law is not fully respected, and the right to appeal, if granted, is handled by judges with similar constraints and lack of independence. Consequently, the Special Rapporteur reiterates his recommendations that the judiciary:**

(a) Exercise full independence and impartiality, particularly in cases of prisoners of conscience;

(b) Guarantee due process of law, including public hearings, in trials against prisoners of conscience;

(c) Refrain from charging and convicting individuals for alleged infringement of national laws that are under revision, in compliance with the first core human rights element. The Special Rapporteur urges the judiciary to refrain from conducting trials against prisoners of conscience if independence is not assured, due process of law is not guaranteed and national law is not properly amended;

(d) Establish effective judicial mechanisms to investigate human rights abuses in order to fight impunity;

(e) Seek international technical assistance with a view to establishing an independent and impartial judiciary that is consistent with international standards and principles. In this respect, the Chief Justice accepted the recommendation to engage with the Special Rapporteur on the independence of judges and lawyers, a decision that has to be pursued.

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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in the Democratic People's Republic of Korea

Report of the Secretary-General**

Summary

The present report is submitted pursuant to paragraph 6 of General Assembly resolution 63/190.

The Government of the Democratic People's Republic of Korea has not recognized the resolutions adopted by the Human Rights Council and the General Assembly on the situation of human rights in the Democratic People's Republic of Korea. It continues not to accept technical assistance from the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has not granted access to the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, appointed by the Human Rights Council. This situation has not allowed the Secretary-General to obtain the information necessary to report in full to the General Assembly regarding the subject in question.

The Secretary-General notes with serious concern continuing reports that the situation of human rights in the Democratic People's Republic of Korea remains grave and that the Government of the Democratic People's Republic of Korea has not taken significant steps to address persistent reports of systematic and widespread human rights violations and to provide safeguards for human rights. He highlights the fact that the Democratic People's Republic of Korea continues to face complex humanitarian problems which hamper the fulfilment of human rights. The Secretary-General is deeply concerned at the continued decline of food assistance made available by the international community, despite the worsening shortage of food reported by humanitarian agencies.

* A/64/150.

** This report was submitted after the deadline so as to include the most recent developments.

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The status of the engagement and cooperation of the Democratic People's Republic of Korea with international human rights mechanisms such as the treaty bodies, the special procedures and the universal periodic review of the Human Rights Council is outlined in the report. The report also contains updates submitted by other United Nations agencies concerning the right to food, the right to health, the rights of the child and the rights of refugees.

The Secretary-General urges the Government to provide safeguards for human rights and ensure domestic legal reform, in accordance with its international treaty obligations. He calls again upon the Government to engage with OHCHR in technical cooperation and to cooperate with the Special Rapporteur on the situation on human rights in the Democratic People's Republic of Korea. He further calls upon the Government to prioritize its resources in order to address the humanitarian needs of its population and to consider allowing United Nations agencies and their humanitarian partners on the ground to increase their operations, with appropriate monitoring conditions. The Secretary-General urges the international community to uphold its commitment to protecting human rights and helping address the critical humanitarian needs of the citizens of the Democratic People's Republic of Korea. He strongly encourages all parties concerned to commit themselves in bilateral and multilateral settings to facilitating increased dialogue and cooperation on human rights.

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I. Introduction

1. The present report is submitted pursuant to paragraph 6 of General Assembly resolution 63/190 of 18 December 2008, in which the General Assembly decided to continue its examination of the situation of human rights in the Democratic People's Republic of Korea at its sixty-fourth session and requested the Secretary-General to submit a comprehensive report on the situation of human rights in the Democratic People's Republic of Korea.

2. The Government of the Democratic People's Republic of Korea has indicated that it does not recognize the resolutions adopted by the Human Rights Council (10/16) and the General Assembly (63/190) on the situation of human rights in the Democratic People's Republic of Korea.[1] Although the Government of the Democratic People's Republic of Korea stated its readiness to participate in the universal periodic review process of the Human Rights Council and cooperate with various human rights mechanisms, the Government of the Democratic People's Republic of Korea has continued not to accept technical assistance from the Office of the United Nations High Commissioner for Human Rights (OHCHR).[2] It has also refused to recognize the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea and has not granted the Special Rapporteur or other special procedures access to the country. This situation has not allowed the Secretary-General to obtain the information necessary to report in full to the General Assembly regarding the subject in question.

3. The Democratic People's Republic of Korea is a party to four international human rights treaties: the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of the Child. The continuous engagement of the Democratic People's Republic of Korea with the Committee on the Rights of the Child is worthy of note. The third and fourth periodic reports of the Democratic People's Republic of Korea concerning the implementation of the Convention on the Rights of the Child were examined by that Committee at its fiftieth session, in January 2009. An encouraging initiative has been the drafting of a 2008-2010 work programme by the Central Committee of the Korean Federation for Persons with Disabilities, under the guidance of the Cabinet, although the Democratic People's Republic of Korea has yet to ratify the Convention on the Rights of Persons with Disabilities. Also welcome is the cooperation of the Democratic People's Republic of Korea with the United Nations Population Fund (UNFPA) for the conduct of a national population census in 2008, the first since 1993. The full report on the census, which will be available by the end of 2009, will contain socio-economic and demographic data that will facilitate more informed policy planning.

4. However, the Secretary-General notes with serious concern continuing reports that the situation of human rights in the Democratic People's Republic of Korea

[1] Statements by the delegation of the Democratic People's Republic of Korea to the General Assembly at its sixty-third session and to the Human Rights Council at its tenth session.

[2] The Democratic People's Republic of Korea will come under review by the universal periodic review mechanism in December 2009. In a statement to the Third Committee in November 2008, the representative of the Democratic People's Republic of Korea stated that the Democratic People's Republic of Korea was ready to participate in the universal periodic review process and cooperate with various human rights mechanisms.

remains grave. Since his previous report (A/63/322), the Government of the Democratic People's Republic of Korea has not taken significant steps to address persistent reports of systematic and widespread human rights violations or to provide safeguards for human rights, as outlined in General Assembly resolution 63/190. Although they could not be independently verified, reports from a range of sources refer to the continuous absence of due process and the rule of law, and inhumane conditions of detention in the country. Torture, forced labour, indoctrination and ill-treatment of refugees or asylum-seekers repatriated from abroad continue to be reported. Reports also indicate that women are vulnerable to human trafficking and those in detention are at risk of sexual abuse. There has also been no significant shift in the authorities' approach with regard to freedom of movement, religion, opinion and expression, the right to peaceful assembly and association, and access to information.

5. Key issues of concern raised by the Committee on the Rights of the Child at its fiftieth session include: the possibility of children facing discrimination on the basis of political or other opinion, social origin or other status, either of themselves or of their parents; children who cross the border into neighbouring countries facing possible harsh treatment upon return or repatriation; the impact of the political climate on children, especially with regard to vulnerability to socio-economic deprivation; and the military aspects of education, which could have a negative impact on the realization of aims of education;[3] labour laws not prohibiting harmful or hazardous work for children aged under 18; the reportedly growing incidence of substance abuse by children and information that children are being mobilized to work on State opium poppy farms; the significant number of *kkotjebi* or street children; and "public education measures" to which children aged between 14 and 17 are subject in cases of crime.

6. The Democratic People's Republic of Korea also continues to face complex humanitarian problems which seriously hamper the fulfilment of human rights of the population. They range from widespread food shortages and a deteriorating health system, to lack of access to safe drinking water or quality education. The report of the crop and food security assessment mission to the Democratic People's Republic of Korea, jointly conducted in October 2008 by the Food and Agriculture Organization of the United Nations (FAO) and the World Food Programme (WFP), indicated that even with anticipated commercial imports and currently pledged food aid, the country would experience a cereal shortfall of 836,000 tons for the 2008/09 marketing year, leaving 8.7 million people in need of food assistance. In May 2009, owing to the low levels of donor resources received for the WFP emergency operation launched in September 2008, WFP was advised by the Government of the Democratic People's Republic of Korea to reduce the humanitarian food programme and adjust the operating conditions to those agreed to in June 2008. One of the changes was a decrease in geographical coverage. With effect from June 2009, WFP has access to only 57 of the 131 counties/districts originally targeted under its emergency operation. The number of international staff has been reduced to 16 (none of them Korean speakers) and three of the five field offices have been closed down. With its reduced geographic coverage, WFP could feed up to 2.27 million people of the 6.2 million originally targeted. Monitoring will require advance notice

[3] Specific reference was made to the aims of education described in article 29 of the Convention on the Rights of the Child.

of one week instead of 24 hours. The Democratic People's Republic of Korea also announced in March 2009 that it would not accept further food aid from the United States and expelled five non-governmental humanitarian aid organizations.

7. With 70 per cent of the population dependent on the public distribution system, it is a matter of concern that Government officials are reporting declining rations, down from 350 grams per person per day to between 200 and 300 grams per person per day — not even a third of daily energy requirements. Urban households in areas of low industrial activity (particularly the north-east) are the most affected by the food shortage. These households have been badly hit by higher food prices and reductions in public food rations, as well as by lower employment and salaries caused by industrial recession. Young children, pregnant and nursing women and elderly people remain particularly vulnerable to food insecurity and malnutrition because of their particular dietary needs.

8. While the announcement by the Democratic People's Republic of Korea on 22 July 2009 that it is setting up the Ministry of Foodstuff and Daily Necessities Manufacturing is a sign that the Government is trying to address the severe food situation, a range of reports have indicated that the authorities have blocked access to alternative sources of food by forbidding kitchen farming in private households and closing down markets where food items are traded. Such reports indicate that the Democratic People's Republic of Korea is failing to fulfil its obligations under international human rights law to protect the right to adequate food.

9. The latter half of the reporting period was dominated by a deterioration of relations between the Democratic People's Republic of Korea and the international community, as a consequence of the nuclear and missile tests undertaken by the Democratic People's Republic of Korea. In spite of the political and security climate, it is of paramount importance that the Government of the Democratic People's Republic of Korea and the international community recognize that the protection of human rights and meeting the humanitarian needs of the citizens of the Democratic People's Republic of Korea should not be adversely affected.

10. The Secretary-General welcomes the release of the two United States journalists and the worker of Republic of Korea nationality working in the Gaesong Industrial Complex, on 4 August and 13 August 2009 respectively. He appreciates the decision of the authorities of the Democratic People's Republic of Korea to take positive measures based on humanitarian concerns. He also welcomes the earlier agreement between the Democratic People's Republic of Korea and Japan that the Democratic People's Republic of Korea conduct a comprehensive investigation of certain cases of abduction[4] and encourages the Democratic People's Republic of Korea to follow up on the agreement. He also encourages the Democratic People's Republic of Korea to take further steps to facilitate family reunions of those separated as a result of the Korean War (1950-1953).

11. Up-to-date information on the cooperation of the Democratic People's Republic of Korea with international human rights mechanisms and on the activities undertaken by the United Nations, in particular OHCHR, to promote and protect human rights in the Democratic People's Republic of Korea is provided in section II below. Updates submitted by other United Nations agencies concerning the right to

[4] Working-level consultations were held between the Democratic People's Republic of Korea and Japan in August 2008.

food, the right to health, the rights of the child and the rights of refugees in the Democratic People's Republic of Korea are contained in section IV below.

II. Cooperation with international human rights mechanisms

A. Treaty bodies

12. The combined third and fourth periodic reports of the Democratic People's Republic of Korea (CRC/C/PRK/4) concerning the implementation of the Convention on the Rights of the Child were considered at the fiftieth session of the Committee on the Rights of the Child, on 23 January 2009. The Committee regretted that the paucity of information provided by the Democratic People's Republic of Korea had made it difficult to assess the progress achieved in the implementation of the Convention. It also regretted that many of its concerns and recommendations from the previous review had been insufficiently or only partly addressed, including those related to data collection, allocation of resources, alternative care, health, education and special protection measures.

13. The Democratic People's Republic of Korea has yet to submit its third periodic report concerning the implementation of the International Covenant on Civil and Political Rights, which was due in January 2004; its second periodic report concerning the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, which was due in March 2006; and its third periodic report concerning the implementation of the International Covenant on Economic, Social and Cultural Rights, which was due in June 2008.

B. Special procedures

14. The Government of the Democratic People's Republic of Korea has to date not issued a standing invitation to the special procedures of the Human Rights Council and not granted requests to visit the country made by the Special Rapporteur on freedom of religion or belief in 2002, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in 1999, the Special Rapporteur on the right to food in 2003 and 2009, and the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea from 2004 to 2009.

15. On 27 April 2009, the Special Rapporteur on the right to food renewed a request for a visit made by his predecessor in 2003. On 4 May 2009, the Government of the Democratic People's Republic of Korea responded that the request made in 2003 was intended to be carried out as part of the implementation of a resolution on the situation of human rights in the Democratic People's Republic of Korea which it "categorically and resolutely" rejected. It added that the resolution had been "pursuing ill-minded political aims to infringe upon the sovereignty of the Democratic People's Republic of Korea" and a visit by the Special Rapporteur on the right to food would not be possible as long as the resolution on the situation of human rights in the Democratic People's Republic of Korea remained in effect. On 20 July 2009, the Special Rapporteur on the right to food responded that his mandate derived from Human Rights Council resolution 6/2, in which the Council had requested him to promote the full realization of the right to

food, and that visits to countries undertaken in the exercise of his mandate were based solely on the above-mentioned resolution. In a communication dated 29 July 2009, the Government of the Democratic People's Republic of Korea responded that the visit requested by the Special Rapporteur on the right to food was related to Commission on Human Rights resolutions on the Democratic People's Republic of Korea in which the Commission had urged the Democratic People's Republic of Korea to cooperate with thematic procedures of the Commission, including the Special Rapporteur on the right to food, and that General Assembly resolutions on the Democratic People's Republic of Korea urged the implementation of the resolutions of the Commission.[5] It added that the mandate of the Special Rapporteur on the right to food had been "abused for political purposes against the Democratic People's Republic of Korea" through those resolutions.

16. The Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on violence against women, its causes and consequences and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention jointly sent an urgent appeal to the Government of the Democratic People's Republic of Korea on 2 April 2009, seeking clarification on the circumstances of the arrest and detention of two United States journalists and the initial steps taken by the Government to safeguard their rights. In a communication dated 8 April 2009, the Government of the Democratic People's Republic of Korea replied that the two United States reporters had been detained on 17 March 2009 as a result of their "hostile acts" and "illegal entry" into the Democratic People's Republic of Korea by crossing the border between the Democratic People's Republic of Korea and China. It further said that, while investigations were under way, consular contact was allowed and treatment of the detained was in accordance with international law. The two journalists, who had subsequently been given a 12-year sentence in a labour camp, were released by the Government of the Democratic People's Republic of Korea on 4 August 2009.

C. Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea

17. On 26 March 2009, at its tenth session, the Human Rights Council, adopted resolution 10/16, in which it decided to extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea for a period of one year. At the same session, the delegation of the Democratic People's Republic of Korea stated to the Council that it "categorically and resolutely" rejected the resolution. The Government of the Democratic People's Republic of Korea argued that the resolution establishing the mandate of the Special Rapporteur was "pursuing ill-minded political purposes", "full of distortions and fabrications" and "in contravention of the founding ideals of the Human Rights Council and undermines the function of the Council". The Government of the Democratic People's Republic of Korea has to date not extended any cooperation to

[5] The Government of the Democratic People's Republic of Korea referred to Commission on Human Rights resolutions 2003/10, 2004/13 and 2005/11, and General Assembly resolutions 60/173, 61/174, 62/167 and 63/190.

the Special Rapporteur and has not approved his outstanding requests to visit the country. The Special Rapporteur renewed his request to undertake an official mission to the Democratic People's Republic of Korea on 14 July 2009. In a communication dated 21 July 2009, the Government of the Democratic People's Republic of Korea reiterated its rejection of the resolution and its non-recognition of the mandate of the Special Rapporteur, and stated that it would "never be possible" for a visit by the Special Rapporteur "to be realized".

18. The Special Rapporteur visited two countries neighbouring the Democratic People's Republic of Korea, the Republic of Korea (27-31 October 2008) and Japan (23-28 January 2009), to gather information on the human rights situation in the Democratic People's Republic of Korea from a variety of Government, civil society and other interlocutors. He highlighted the unresolved issue of persons abducted by the Democratic People's Republic of Korea, as well as the protection needs of those fleeing from the Democratic People's Republic of Korea and the issue of family reunion.

19. The Special Rapporteur presented his previous report to the General Assembly (A/63/322) on 23 October 2008 and his latest report to the Human Rights Council (A/HRC/10/18) on 16 March 2008. In the latter report, the Special Rapporteur analysed information relating to food and basic necessities, personal security, freedoms, asylum and migration, the situation of specific groups and ways to address the situation from the perspectives of prevention, protection, provision and participation. The Special Rapporteur is submitting a separate report to the General Assembly at its sixty-fourth session on the situation of human rights in the Democratic People's Republic of Korea, pursuant to General Assembly resolution 63/190 and Human Rights Council resolution 10/16.

D. Working Group on Enforced or Involuntary Disappearances

20. In its latest report to the Human Rights Council (A/HRC/10/9), the Working Group on Enforced or Involuntary Disappearances stated that, since its establishment, it had transmitted nine cases of disappearance to the Government of the Democratic People's Republic of Korea, all of which remained outstanding. In addition to eight cases relating to Japanese nationals abducted in the 1970s and 1980s, a further case of disappearance was reported to have occurred, that of a female national of the Republic of Korea on the border between China and the Democratic People's Republic of Korea in 2004. The Government of the Democratic People's Republic of Korea transmitted three communications to the Working Group, dated 10 January, 6 May and 2 October 2008, in which it replied with regard to all the outstanding cases. The Working Group found that the responses did not contain sufficient information to clarify the fate or whereabouts of the disappeared persons.

21. Separately, the Working Group submitted two newly reported cases to the Government of Japan. These cases concern two Japanese nationals reportedly abducted in Japan by secret agents of the Democratic People's Republic of Korea. In accordance with its methods of work, the Working Group sent a copy of the cases to the Government of the Democratic People's Republic of Korea.

22. The Working Group notes the positive steps taken by the Government of the Democratic People's Republic of Korea and the Government of Japan and is hopeful

that new investigations may be carried out and lead to the clarification of the outstanding cases. The two Governments reached an agreement during their working-level consultations in August 2008 to ensure that the Democratic People's Republic of Korea conducts a comprehensive investigation of the unresolved cases of abduction.

E. Universal periodic review

23. The review of the Democratic People's Republic of Korea under the universal periodic review mechanism of the Human Rights Council will take place at the sixth session of the universal periodic review scheduled for December 2009. The delegation of the Democratic People's Republic of Korea has actively participated in the review of reports submitted by other Member States in the universal periodic review process. The Secretary-General strongly encourages the authorities of the Democratic People's Republic of Korea to engage with OHCHR and other United Nations agencies to implement the recommendations that will arise from the review of the Democratic People's Republic of Korea.

III. Role of the Office of the United Nations High Commissioner for Human Rights in assisting the Government of the Democratic People's Republic of Korea in the promotion and protection of human rights

24. The United Nations High Commissioner for Human Rights invited the Permanent Representative of the Democratic People's Republic of Korea to the United Nations Office at Geneva to a meeting on 16 February 2009, with a view to exploring ways of initiating technical cooperation between OHCHR and the Democratic People's Republic of Korea.

25. The High Commissioner welcomed the statement made by the representative of the Democratic People's Republic of Korea in the Third Committee in November 2008 that it was ready to participate in the universal periodic review process and to cooperate with various human rights mechanisms. She pointed out that OHCHR was one such mechanism. Given that the Democratic People's Republic of Korea had not accepted past offers of technical assistance from OHCHR, the High Commissioner stressed the independent role of OHCHR and that its offer of technical assistance did not originate from or depend upon resolutions with which the Democratic People's Republic of Korea had difficulties. She also expressed concern over reports of the critical food situation, the increase in the number of homeless children, the punishment upon their return of citizens who had left the country, the large number of public executions, the sexual assault of female prisoners and the trafficking of women. She strongly encouraged the Democratic People's Republic of Korea to allow OHCHR to conduct an assessment mission and to discuss possible areas of cooperation, especially in the light of the forthcoming review of the Democratic People's Republic of Korea by the universal periodic review mechanism in December 2009. The High Commissioner stated that a first visit by OHCHR would be a very positive signal from the Government of the Democratic People's Republic of Korea.

26. The Permanent Representative of the Democratic People's Republic of Korea said that he need not repeat the unfairness of the resolutions adopted against the Democratic People's Republic of Korea. While the Permanent Representative thanked the High Commissioner for the offer of technical assistance, he stated that his Government would only allow a visit or welcome technical cooperation if the resolutions, which it considered to be aimed at eliminating the socialist State system of the Democratic People's Republic of Korea, were removed. He also stated that the Democratic People's Republic of Korea would have no difficulty in accepting technical assistance from OHCHR if technical cooperation were not mentioned in resolutions which the Government of the Democratic People's Republic of Korea did not recognize. The Permanent Representative added that the Democratic People's Republic of Korea did not agree with the resolutions and the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea existing in parallel with the universal periodic review. He regretted that OHCHR should rely on reports "fabricated by hostile forces".

27. The High Commissioner stressed the need to separate the institutional processes and to discuss the appropriate type of technical cooperation. She also emphasized that by not engaging with OHCHR, the authorities of the Democratic People's Republic of Korea were forcing OHCHR to rely on the reports of human rights violations that it had received. The High Commissioner maintained the offer for OHCHR to assist the Democratic People's Republic of Korea in preparing for its universal periodic review session. To date, there has been no further communication on this matter.

IV. Assistance for the promotion and protection of human rights in the Democratic People's Republic of Korea extended by the United Nations system

28. In a letter dated 12 May 2009, the United Nations High Commissioner for Human Rights invited United Nations principals to submit relevant information to OHCHR on the human rights situation in the Democratic People's Republic of Korea. OHCHR subsequently received relevant information from the following United Nations entities: the United Nations country team in the Democratic People's Republic of Korea;[6] FAO; WFP; the United Nations Children's Fund (UNICEF); UNFPA; and the Office of the United Nations High Commissioner for Refugees (UNHCR).

A. Food and Agriculture Organization of the United Nations

29. FAO reported that the Democratic People's Republic of Korea had yet to achieve freedom from hunger. In 2006 and 2007, the Democratic People's Republic of Korea suffered negative developments in domestic food availability, including two consecutive years of summer flooding. Based on Government data on the 2007 spring and summer harvests, FAO estimated the cereal deficit in 2008 to be over 1.6 million tons, the largest food shortfall since 2000/01.

[6] The United Nations country team in the Democratic People's Republic of Korea comprises five resident United Nations agencies — FAO, UNFPA, UNICEF, WFP and WHO.

30. According to the 2008 FAO/WFP crop and food security assessment mission report, the agricultural production of the Democratic People's Republic of Korea would not meet basic food needs in 2008/09 despite favourable climatic conditions during the prior growing season. The average household will continue to face major challenges in accessing sufficient food in the coming year. According to the FAO/WFP assessment mission report, only 142 kg per annum will be available on average per person from domestic production, compared to the estimated 167 kg per annum needed for a healthy diet. Serious food shortages persist and continue to affect vulnerable members of the population, including young children, pregnant and nursing women, the disabled and the elderly. The most vulnerable communities are located in urban and peri-urban areas, primarily, but not entirely, in the north-east.

31. Malnutrition rates are high, with 37 per cent of young children chronically malnourished and one third of mothers malnourished and anaemic.[7] The vulnerable communities have little prospect of either producing their own food or earning enough income to make food purchases. This is especially so in the northern provinces with a large non-farm population, where former industrial or mining communities experience high levels of unemployment or underemployment and have little access to productive land. In these provinces, cooperative farm families, which during a reasonable harvest year are modestly food-secure, were experiencing dwindling household food stocks as they were obliged to share their produce with relatives in nearby towns. The vulnerable communities are also heavily reliant on food transfers from surplus-producing areas. The "cereal bowl" provinces are the only parts of the country potentially able to generate any substantial food surplus which can be transferred to these most needy groups. However, without sufficient fertilizer, production in the "cereal bowl" surplus-producing areas of North and South Hwanghae, North and South Pyongan and Pyongyang provinces cannot reach levels at which food may be transferred to deficit areas in support of the neediest communities.

32. The low output of the farming sector in the Democratic People's Republic of Korea is mainly caused by a long-term decline in soil fertility, extreme weather events, structural issues (including constraints on market activities) and the lack of key inputs such as fertilizer, fuel, seed, plastic sheeting and mechanization, including spare parts and tyres. The situation is compounded by chronic energy shortages, especially of electricity and fuel for land preparation, harvesting and post-harvest management. In 2008, although seed was available, fertilizer supplies were only 60 per cent of deliveries in 2007 and fuel supplies amounted to 70 per cent of the previous year's levels. Wheat and barley seed, essential for early cropping, is often of poor quality and low yielding, and needs replacing with improved varieties. The same is true for vegetables, which form an important component of the Korean diet.

33. Arable land amounts to less than 20 per cent of the total area of the country and there is a short growing season. Soils are poor, with low organic content. Over the past few years, natural disasters have affected agriculture virtually every year with varying degrees of severity, with consequent adverse effects on food production. In addition, within the farming sector there exists a lack of incentives, coupled with an outmoded institutional framework. Furthermore, the economic and

[7] These figures were reported by the 2004 joint Government, UNICEF and WFP nutrition assessment.

political situation does not allow for significant commercial imports of much needed agricultural inputs. In 2008, the cost of food in the markets rocketed, with rice costing 2.5-3 times more than two years ago, while the price of maize was four times higher. Household incomes seem unable to keep up with these rampant price increases. Official salaries remain almost stagnant and informal incomes are suffering the effects of tightening restrictions on market activities. Increases in agricultural production can only be achieved through improved yields, given that all suitable arable land is already under cultivation.

34. Prospects for the 2009 agricultural season and, therefore, food security, are threatened primarily by a shortage of fertilizer. Fertilizer is needed for increased production of cereals and vegetables. Its availability would enable farmers to provide timely and sufficient applications at critical stages in crop development to improve soil fertility, precluding the need to compensate for insufficient chemical fertilizer by applying local compost, which is of limited effectiveness, saving farmers an unnecessary workload that competes with other essential farming tasks and preventing further irreversible environmental damage.

35. For the second successive year, the Democratic People's Republic of Korea is not requesting annual aid of some 350,000 metric tons of fertilizer from the Republic of Korea. Export taxes on fertilizer applied by China, the major exporter of fertilizer to the Democratic People's Republic of Korea, reached 150 per cent in 2008 and now are as high as 110 per cent. During the recent boom, global prices for fertilizer escalated further and faster than for any other major commodity. Despite an easing of price increases in the second half of 2008, prices remain at very high levels. Although the Government of the Democratic People's Republic of Korea has historically provided fertilizer to farmers in exchange for a quota of the harvest, it is increasingly unable to make such provision because of its underlying economic problems. The Democratic People's Republic of Korea has very limited prospects for purchasing fertilizer on international markets. Furthermore, fertilizer production in-country is very limited; factories are producing greatly below capacity and any carry-over stocks were used up in 2008.

36. The Democratic People's Republic of Korea requires a total of 750,000 metric tons of fertilizer annually. The 2008 FAO/WFP crop and food security assessment mission estimated that in 2008 only 60 per cent of that total requirement was actually applied. This was consistent with cooperative farms reporting that they had received approximately 60 per cent of a normal year's allocation, which is nearly always set significantly below actual agronomic needs. It has not been possible to obtain official estimates for fertilizer allocation for 2009. However, current FAO field reports indicate that the level is similar to that for 2008. This represents a very serious shortfall. Farmers have again compensated by mass efforts to apply local, improved compost, the required application rates for which are much higher than those for chemical fertilizer, 25 metric tons as compared with 5 metric tons per hectare. Local compost is, however, unlikely to compensate effectively for chemical fertilizer and crop yields in 2009 are again likely to be seriously reduced. The official practice is to apply compost immediately to fields without allowing sufficient time for it to decompose. Moreover, the practice is not sustainable, as evidenced especially by the depletion of local peat resources, which many households rely on for domestic heating, and intense use of organic material and even of topsoil from sloping land. During the main growing season in 2008, the country experienced optimum crop-growing conditions, with no natural disasters or

any pest or disease epidemics. However, FAO estimated that the heavy chemical fertilizer shortfall had reduced the eventual harvest by 25 to 30 per cent.

B. World Food Programme

37. Despite several policy statements having been made over the past year on the urgency of solving the food problem, there has been no noticeable improvement in household food security, and hunger remains widespread across the country. The effects of the large food shortages following the decreased 2008/09 harvest were evident during WFP monitoring visits. The majority of households visited reported difficulties in accessing sufficient food from standard food sources like the public distribution system, consumption of reduced number of meals per day and very poor dietary diversity (mainly cereals, vegetables and wild foods). Several institutions and hospitals visited reported an increase in the number of children suffering severe malnutrition, and a general deterioration in health.

38. The dangers of the continued large food shortages are of particular concern for mothers and young children, with many regions showing a causal cycle of poor maternal nutrition, low weight gain during pregnancy, low birth weight and resulting poor immunity and high infection and neonatal mortality rates. As the dietary needs of these vulnerable groups are elevated, WFP hopes more efforts will be made to enhance their access to a nutritious diet. The interest shown by the Government of the Democratic People's Republic of Korea in expanding local production of vitamin- and mineral-fortified foods is positive and WFP encourages both the Government of the Democratic People's Republic of Korea and the international community to support the expansion of the WFP-supported programme or similar domestic initiatives.

39. The limited availability of resources to fund humanitarian food assistance programmes was a key concern over the reporting period and as a result WFP activities in the Democratic People's Republic of Korea fell far short of their intended impact. Food distributions since January 2009 only amounted to around 4,500 metric tons per month, a mere 10 per cent of planned levels. Out of the 6.2 million of the population envisaged to be fed under the emergency operation, only some 1.33 million had been reached, with incomplete food rations, in June 2009. As humanitarian needs remain very high and bilateral imports/aid are limited, this situation is likely to lead to deteriorating nutrition and health in the most vulnerable groups and regions.

40. Some of the positive steps taken in 2008 to alleviate the food problem through international cooperation were reversed in 2009. The decision by the Democratic People's Republic of Korea to decline some international offers of food assistance could lead to reduced food availability unless sufficient quantities are secured through imports or bilateral assistance. Moreover, in June 2009, owing to lack of resources, the Government of the Democratic People's Republic of Korea altered some of the key provisions of the operating conditions for the World Food Programme agreed to a 2008 letter of understanding, including by ending the ability to employ Korean-speaking monitors, reducing the number of international staff visas issued, restricting geographical coverage and reverting to the practice of requiring 7-day travel plans for monitoring instead of 24-hours' notice. In particular, the reduction of geographical access to 57 from 131 counties/districts is likely to

negatively affect food access for many households, most notably in Ryanggang province, a traditionally food-deficit region with high malnutrition rates which will no longer be accessible. WFP hopes that the Government of the Democratic People's Republic of Korea will be open to reconsidering the changes in operating conditions, should more resources be made available from the international community or should humanitarian needs so warrant.

41. WFP welcomes the facilitation by the Government of the Democratic People's Republic of Korea of the FAO/WFP crop and food security assessment in October 2008, the first of its kind since 2004, and hopes similar cooperation will be extended in 2009. The ability to undertake assessments of food security, agriculture and nutrition/health is vital to ensure the correct identification of food needs, proper targeting of food assistance and evaluation of the impact of humanitarian programmes. If successfully resourced, such operations will go a long way towards alleviating the hunger of the population.

C. United Nations Children's Fund

42. The vulnerability of women and children to malnourishment continues to be significant and is intrinsically linked to the shortage of food. While UNICEF can mitigate this problem to some extent through multiple interventions, the structural and other constraints to eradicating extreme poverty and hunger continue to be challenging.

43. The Democratic People's Republic of Korea has achieved universal primary education, as all children complete secondary education in the country and literacy rates are near universal. The challenge, however, is to improve the quality of teaching and learning. In this regard there are hopeful developments, such as an ongoing project on the revision of the mathematics curriculum.

44. UNICEF reported that the Democratic People's Republic of Korea has done well in promoting gender equality and the empowerment of women, and that indicator requirements relating to parity between boys and girls in schools, female/male literacy and the share of women in wage employment are all met to the extent that information is available about these matters. Women and men are paid the same wages and women enjoy a flexible five-month period of paid maternity leave.

45. It is difficult to estimate progress towards reducing child mortality owing to the absence of reliable data. Important initiatives in this area in 2008 include a vigorous campaign on exclusive breastfeeding, with the observance of International Breastfeeding Week for the first time, and the completion of a nationwide immunization coverage survey and cold chain assessments. New initiatives in the area of nutrition include a pilot community-based therapeutic care project and the development of an information package covering pre-pregnancy and containing nutritional and health messages for distribution to all newly-wed couples.

46. The maternal health area continues to be a major challenge. A very high percentage of deliveries take place in institutions and WHO, UNFPA and UNICEF are working together to improve the facilities of such institutions for safe delivery and to enhance the capacity of the medical personnel who attend deliveries. The nutritional status of pre-pregnant women is also a key factor linked to maternal

health and mortality rates, and must be adequately addressed for performance in this area to improve significantly.

47. While it is difficult to estimate progress made on ensuring environmental sustainability owing to lack of access to policy documents, UNICEF and its partners continue to be committed to addressing the right to live in a healthy environment, including the rights to sanitation and clean water. Positive developments reported by UNICEF include progress on the consolidation of the gravity fed water systems leading to good capacity to scale up this technology, and the completion of a pilot project on a decentralized waste water system. Both of these technologies are energy-free and contribute to the reduction of carbon emissions as they displace fuel-based alternatives.

D. United Nations Population Fund

48. With technical and funding support from UNFPA, a national population census was successfully conducted in October 2008 in the Democratic People's Republic of Korea. The socio-economic and demographic data collected from the census will better inform the policy planning of the authorities in the Democratic People's Republic of Korea and of United Nations agencies dealing with a range of rights-related programmes. The field work for the census was conducted by over 40,000 supervisors and enumerators for some 15 days, and was observed and monitored by 13 international personnel. With support from the UNFPA Chief Technical Advisor and visiting international consultants, the census data entry was completed by the end of May 2009 and data editing, tabulation and analysis was then started. The full census report, in accordance with United Nations standards and quality, is expected to be made public before the end of 2009. In February 2009, the preliminary result of the census was released by the Government of the Democratic People's Republic of Korea. They indicated a total population as of October 2008 of over 24 million and an estimated population growth rate of 0.8 per cent per annum since the previous census in 1993.

49. UNFPA continues to implement the national reproductive health strategy with a programme focusing on reducing maternal mortality. With funding support from the Central Emergency Response Fund, Norway and New Zealand, the UNFPA comprehensive package for emergency obstetric and neonatal care at the levels of primary health care at Ri (organizational unit) clinics and hospitals, and of referral at county hospitals, was extended to 273 villages in 11 focus counties. The package includes extensive hands-on emergency obstetric and neonatal care training for doctors and midwives, the supply of essential reproductive health medicine, medical instruments and consumables, as well as information, education and communication activities targeting clinics, hospitals and households in these 11 counties. In addition, UNFPA continues to provide three modern family planning methods and started piloting the use of the hormone injection method in selected counties in 2008.

50. In 2008, UNFPA started to provide oxytocin nationwide, in an effort to deal with post-partum haemorrhage, which is the most prominent cause of maternal mortality in the Democratic People's Republic of Korea. Follow-up visits by UNFPA to the county hospitals and Ri clinics indicate that there is no stock-out of oxytocin at almost all clinics and hospitals visited in the prior 18 months. In the

meantime, cascaded training is being conducted by UNFPA for all health facilities in the country to ensure proper use of oxytocin.

51. With funding support, in particular from the Central Emergency Response Fund, UNFPA was able not only to respond to the immediate needs for basic reproductive health services in the flooded areas in 2007 but also to assist their recovery in 2008 and 2009. In the 27 most affected counties, 250 villages received emergency supplies of clean and safe delivery kits in 2008 and 2009. As a result, there was no increase in maternal mortality in these areas in 2008 and basic emergency obstetric and neonatal care services were uninterrupted.

52. UNFPA continues to strengthen its monitoring activities in the country, in accordance with the principle of "no access, no assistance". For the reproductive health programme, over 230 villages were visited by UNFPA in 2008. For the census project, international personnel had random access throughout the country during the field enumeration in October 2008. UNFPA also started strengthening the national capacity, especially that of the Ministry of Public Health, to monitor and supervise health programmes. Various training on the subject was provided to key staff of the Ministry of Public Health in 2008.

53. Responding to the need to improve the quality and accessibility of reproductive health care in the Democratic People's Republic of Korea, UNFPA, in partnership with other agencies, is supporting the drawing up of in-service and pre-service training guidelines on emergency obstetric and neonatal care and on family planning, the production of an essential reproductive health drug list and the preparation of a doctor's training package on caesarean sections. Together with the International Planned Parenthood Federation, UNFPA also conducted joint research on cervical cancer and will establish a family planning clinic with mobile outreach capacity in North Pyongan province to provide a basic reproductive health service to three mountainous counties.

E. Office of the United Nations High Commissioner for Refugees

54. The United Nations High Commissioner for Refugees (UNHCR) observes that the flow of nationals of the Democratic People's Republic of Korea leaving the country to seek protection, assistance and relocation/resettlement elsewhere has slightly decreased during the reporting period. Nevertheless, reported movements continue to raise a number of concerns: reports of severe curtailing of the right to freedom of movement, including the right to leave the country; increased risks of smuggling and of trafficking of human beings, in particular women for the purposes of prostitution and/or forced marriages; violation of the fundamental principle of non-refoulement by countries of transit; reports of severe punishment in cases of forced return to the Democratic People's Republic of Korea; restrictive policies applied by countries of transit, in particular arrest and detention; absence of access to basic social and economic rights, to legal stay and related documentation (even for long-stayers); no formal recording and/or documentation of vital events; limited possibilities to regularize the stay of children born of mixed parents (a national of the Democratic People's Republic of Korea and a national of another country); and prolonged exit procedures that severely affect the well-being of nationals of the Democratic People's Republic of Korea awaiting settlement in third countries. Unaccompanied women and children are particularly affected by these issues.

UNHCR continues to warn that, if the situation in the Democratic People's Republic of Korea were to deteriorate and these movements were to increase, the countries of transit could have difficulty in coping, because of their limited capacity.

V. Conclusions and recommendations

55. **The Secretary-General urges the Government of the Democratic People's Republic of Korea to provide safeguards for human rights and ensure domestic legal reforms in order to comply with its international treaty obligations.**

56. **The Secretary-General welcomes the review by the Committee on the Rights of the Child of the third and fourth periodic reports of the Democratic People's Republic of Korea on its implementation of the Convention on the Rights of the Child and urges the Government of the Democratic People's Republic of Korea to implement fully the recommendations of the Committee, including with regard to the need to improve access for United Nations agencies in order to ensure equal distribution of humanitarian assistance, including food aid.**

57. **The Secretary-General is encouraged by the drafting of a 2008-2010 work programme by the Central Committee of the Korean Federation for Persons with Disabilities and hopes that the Democratic People's Republic of Korea will take early steps to ratify and implement the Convention on the Rights of Persons with Disabilities.**

58. **The Secretary-General reiterates his call upon the Government of the Democratic People's Republic of Korea to demonstrate its cooperation with human rights mechanisms by:**

(a) **Taking up the offer of technical assistance from OHCHR, especially with a view to implementing the recommendations that will result from the forthcoming review of the Democratic People's Republic of Korea by the universal periodic review mechanism. The independent role of OHCHR is reiterated and the Government of the Democratic People's Republic of Korea is urged to engage with OHCHR in substantive dialogue and technical cooperation. The United Nations High Commissioner for Human Rights will continue to work with other United Nations agencies to strengthen the promotion and protection of human rights for all nationals of the Democratic People's Republic of Korea;**

(b) **Allowing access to the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea and other special procedures to observe the situation of human rights in the country at first hand;**

(c) **Submitting its periodic reports concerning the implementation of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women that remain outstanding.**

59. **The Secretary-General urges the authorities of the Democratic People's Republic of Korea to abide by its obligations under international human rights**

law to fulfil the right to adequate food, and to urgently prioritize its resources in order to ensure food security and address the humanitarian needs of its population, including through enhanced humanitarian cooperation with the international community. He renews his call upon the Government to allocate appropriate budgetary resources and adopt policy measures to increase food accessibility for everyone in all locations of the country, paying specific respect to the dietary needs of children, women and other vulnerable groups.

60. The Secretary-General calls upon the Government of the Democratic People's Republic of Korea to facilitate increased and sustained humanitarian operations by the United Nations and its humanitarian partners, and to allow appropriate monitoring conditions. The United Nations agencies continue to play an essential role with regard to development, recovery and emergency aid, capacity-building and the facilitation of international contacts at the technical level in these areas.

61. The Secretary-General also calls upon the international community to uphold its commitment to protecting human rights and addressing critical humanitarian needs of the citizens of the Democratic People's Republic of Korea, and to ensure that humanitarian aid is not adversely affected by political and security concerns. He strongly encourages all parties concerned to facilitate an environment for increased dialogue and cooperation on human rights.

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

National institutions for the promotion and protection of human rights

Report of the Secretary-General**

Summary

The present report, covering the period September 2008 to September 2009, contains information on the activities undertaken by the Office of the United Nations High Commissioner for Human Rights to establish and strengthen national human rights institutions; measures taken by Governments and national human rights institutions in this regard; support provided for the international and regional activities of national human rights institutions; technical assistance provided to and on national human rights institutions, together with other United Nations agencies and programmes; and cooperation between national human rights institutions and international mechanisms to promote and protect human rights. Information regarding the work of national human rights institutions in respect of specific thematic issues is also included.

The present report complements the report of the Secretary-General to the Human Rights Council of 26 January 2009 (A/HRC/10/54), which covers activities for the period from January to December 2008, provides background information and should be read in conjunction with the present report. Documents dealing with the events noted in the present report, including reports, declarations and meeting documentation, can also be found on the website of the National Human Rights Institution Forum (www.nhri.net).

* A/64/150.

** The present document was submitted late, without the explanation required under paragraph 8 of General Assembly resolution 53/208 B, by which the Assembly decided that if a report is submitted late, the reason should be included in a footnote to the document.

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I. Introduction

1. The present report is submitted pursuant to paragraph 25 of General Assembly resolution 63/172, in which the Assembly requested the Secretary-General to report to it at its sixty-fourth session on the implementation of the resolution. The report covers activities for the period from September 2008 to September 2009 and complements the report of the Secretary-General to the Human Rights Council of 26 January 2009 (A/HRC/10/54), which covers activities for the period from January to December 2008. That report provides background information and should be read in conjunction with the present report.

2. Resolution 63/172, which was adopted by consensus, illustrates the growing importance that Member States attach to the role and potential of national institutions in the promotion and protection of human rights at the national, regional and international levels. It reaffirmed the importance of the development of effective, independent and pluralistic national human rights institutions, and encouraged such institutions to seek accreditation through the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, noting its strengthened accreditation procedure and continued assistance of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in this regard. It also acknowledged the important work performed by regional networks of national human rights institutions. Furthermore, resolution 63/169 encouraged Member States to consider the creation or the strengthening of independent and autonomous Ombudsman, mediator and other national human rights institutions, and to develop, where appropriate, mechanisms of cooperation between them to coordinate action and strengthen their achievements.

II. Office of the United Nations High Commissioner for Human Rights and national human rights institutions

3. National human rights institutions are important partners for the Office of the United Nations High Commissioner for Human Rights. They have a crucial role to play in the effective implementation of international human rights standards at the national level by promoting the development of laws and practices consistent with those standards and monitoring their implementation. National human rights institutions can thus strengthen national protection systems by translating international human rights norms in a way that reflects national contexts and specificities.

4. OHCHR therefore accords high priority to the establishment and strengthening of national human rights institutions with due regard for the Principles relating to the status of national institutions (the Paris Principles), adopted by the General Assembly in 1993 (resolution 48/134, annex). The National Institutions Unit is a specialized unit within the OHCHR Field Operations and Technical Cooperation Division at headquarters dedicated to supporting OHCHR action with respect to national human rights institutions. As a centre of knowledge, the Unit brings together expertise and comparative experience on issues related to national human rights institutions. Working in close cooperation with the geographic units in the Division and all human rights field presences, as well as in partnership with the United Nations Development Programme (UNDP) and United Nations county

teams, the Unit contributes to supporting sustainable human rights infrastructures for the implementation of international norms.

5. To ensure that national human rights institutions are established in compliance with the Paris Principles and work as credible and effective guarantors of human rights at the country level, OHCHR provides legal and technical assistance to national stakeholders; the International Coordinating Committee of National Institutions and its Subcommittee on Accreditation; and coordinating bodies of the regional national human rights institution networks. It assists national institutions in actively addressing core human rights concerns, contributing to the rule of law, fighting impunity and establishing partnerships with civil society. OHCHR has also supported national human rights institutions in increasing their outreach at the international level, including by encouraging their participation in the United Nations human rights system (i.e., the Human Rights Council, United Nations treaty bodies and special procedures mandate holders), thus increasing their visibility as authoritative human rights actors.

6. Since 2003, OHCHR has maintained the website of the National Human Rights Institution Forum (www.nhri.net), which is linked to the OHCHR main web page and websites of national institutions and includes information on the human rights system, as well as on country and thematic issues and the activities of the International Coordinating Committee.

7. In 2008, OHCHR introduced a fellowship programme through which staff of national human rights institutions with A-status accreditation by the International Coordinating Committee are selected to work in the National Institutions Unit for six months or, increasingly, for one full year, to gain knowledge of and experience with the United Nations human rights system and to bring direct national experience to the work of the Office. In 2008, OHCHR hosted two fellows under the fellowship programme for national human rights institution staff — one from the National Human Rights Commission of the Republic of Korea and one from the Australian Human Rights Commission. The programme has continued in 2009, also with two fellows, one from the National Human Rights Commission of Togo and one from the Office of the Human Rights Defender of El Salvador. The programme has received much interest from national human rights institutions worldwide and has resulted in strong benefits for OHCHR in terms of both substantive expertise and the consolidation of direct contacts with national human rights institution staff globally.

8. In July 2009, OHCHR released a report on the findings from a questionnaire circulated at the beginning of the year taking stock of the current state of national human rights institutions around the world. The main objective of the questionnaire was to increase OHCHR knowledge of the strengths and weaknesses of such institutions. The results, based on data received from 61 national institutions worldwide, showed that they face capacity needs mainly in relation to, inter alia, organizational and resource management; knowledge of the international human rights system; relationships with public bodies and civil society; and the effective follow-up of their recommendations. The report will assist OHCHR and other United Nations agencies, including United Nations country teams and UNDP, to identify priority areas for assistance to national institutions, thus contributing to the enhancement of this important component of the national protection system.

A. Advisory services provided by OHCHR on national human rights institutions

9. OHCHR facilitated awareness-raising activities for the establishment of national human rights institutions in line with the Paris Principles. It also reviewed constitutional or legislative frameworks for new national institutions in a number of countries, providing tailored advice on appropriate forms, functions, powers and responsibilities of such institutions. Comparative analyses, technical cooperation needs assessments, project formulation and evaluation missions were also undertaken to strengthen existing institutions. Advice and assistance were frequently provided in collaboration with human rights field presences; other United Nations partners, including UNDP and the Department of Peacekeeping Operations; and the regional coordinating bodies of national human rights institutions.

10. During the reporting period, a number of national human rights institutions and/or Governments have benefited from such advice and assistance.[1]

1. The Americas and the Caribbean

11. During the reporting period, the regional office of OHCHR in Panama, country offices in the Plurinational State of Bolivia, Colombia, Guatemala and Mexico, human rights advisers in Ecuador and Nicaragua and the human rights component of the United Nations Stabilization Mission in Haiti (MINUSTAH) have continued to provide advice and assistance in the establishment and strengthening of national human rights institutions in the Americas and the Caribbean.

12. On 24 December 2008, a law to establish a national human rights institutions in Uruguay was passed. The law followed joint advocacy by the National Institutions Unit of OHCHR and the Office's Regional Representative for Latin America; the United Nations system in Uruguay; and the heads and representatives of the national human rights institutions of Peru, the Bolivarian Republic of Venezuela, Argentina, the Plurinational State of Bolivia, Mexico and Paraguay in 2005, 2006 and 2008.

13. In 2008, draft legislation to establish the National Ombudsman Office of Haiti was submitted to the Government. OHCHR and MINUSTAH have provided comments on the draft legislation and are currently following developments closely.

14. Following the reviews of Belize and Chile at the fifth session of the universal periodic review working group in May 2009 and the resulting recommendations to establish a national human rights institution in accordance with the Paris Principles,[2] OHCHR has initiated consultations on this matter with authorities in both countries.

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[1] National human rights institutions and/or Governments of the following: Afghanistan, Bahrain, Bangladesh, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chile, Djibouti, Democratic Republic of the Congo, Ecuador, Ethiopia, Georgia, Guinea, Guinea-Bissau, Jordan, Indonesia, Iraq, Kyrgyzstan, Lesotho, Liberia, Lithuania, Malaysia, Mali, Mauritania, Mauritius, Mongolia, Nepal, Pakistan, Panama, Philippines, Republic of Moldova, Russian Federation, Rwanda, Samoa, Sierra Leone, Sri Lanka, Sudan, Southern Sudan, Tajikistan, Timor-Leste, Togo, Turkey, Uganda and Uruguay.

[2] Belize: A/HRC/WG.6/5/L.3, paras. 34, 41, 67, 10 and 68; Chile: A/HRC/WG.6/5/L.9, paras. 41 and 16.

15. OHCHR country offices organized a number of capacity-building activities involving representatives from national human rights institutions in the Latin American region: a regional workshop on human rights in Colombia; awareness-raising in Guatemala on the Convention on the Rights of Persons with Disabilities; a workshop in Nicaragua to promote the implementation of the Convention and of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and consultations on the promotion of human rights indicators in Mexico.

2. Africa

16. During the reporting period, OHCHR regional offices in Central Africa, East Africa, southern Africa and West Africa; country offices in Togo and Uganda; human rights advisers to United Nations country teams in Guinea, Kenya, the Niger and Rwanda; and human rights components of United Nations peace missions in Burundi, the Central African Republic, Chad, Côte d'Ivoire, Darfur (the Sudan), the Democratic Republic of the Congo, Guinea-Bissau, Liberia, Sierra Leone, Somalia and the Sudan have continued to provide advice and assistance in the establishment and strengthening of national human rights institutions in Africa.

17. Following the establishment of a national human rights institution in Djibouti in 2008, the OHCHR Regional Office for East Africa, in collaboration with the institution, conducted a training workshop for participants from the Government, non-governmental organizations and the institution itself on reporting to the United Nations human rights mechanisms, focusing on the universal periodic review and the Convention on the Elimination of All Forms of Discrimination against Women. Furthermore, a joint two-year technical assistance programme was developed by the Regional Office for East Africa, UNDP, the United Nations Children's Fund (UNICEF) and UNFPA, together with the Government and the national human rights institution. The aim of the programme is to increase the human rights-related knowledge of national stakeholders and strengthen their capacities in the area of treaty body and universal periodic review reporting.

18. In Ethiopia, training was provided to staff of the newly established national human rights institution, and a website was developed. The OHCHR Regional Office for East Africa assisted the institution in carrying out activities to raise awareness regarding human rights and to enhance the Government's capacity in the area of treaty reporting.

19. From 13 to 15 October 2008, OHCHR and the United Nations Office on Drugs and Crime participated in a joint workshop organized by UNDP Mauritius to review the Mauritius Human Rights Commission's mandate. This contributed to enhancing the capacity of the Commission to fulfil its new mandate concerning police oversight and equal opportunities.

20. In the United Republic of Tanzania, the OHCHR Regional Office for East Africa, in collaboration with the Commission on Human Rights and Good Governance, co-organized a national conference, which was held on 28 and 29 October 2008, highlighting the human rights situation in the country and national priorities. OHCHR also provided training on basic human rights standards and monitoring skills for 29 Commission investigation officers from 22 to 25 June 2009.

21. In Lesotho in November 2008, the OHCHR Regional Office for Southern Africa participated in national consultations with civil society and members of Parliament to discuss the 2007 National Human Rights Commission Bill and relevant constitutional provisions to establish the Commission, with the outcome informing parliamentary discussions on the legislation.

22. Following two years of technical assistance to the Government of Burundi with a view to the establishment of a national human rights institution, OHCHR, in cooperation with the United Nations Integrated Office in Burundi in Bujumbura, organized a round table on 29 and 30 January 2009 to encourage parliamentarians to adopt a draft law to establish a national human rights institution, which had been submitted in November 2008. Sixty parliamentarians, representatives of the Administration and civil society, as well as the national human rights institutions of Kenya, Rwanda, Senegal, Togo and Uganda, participated in the event.

23. Following assistance from OHCHR and the human rights component of the United Nations Mission in the Sudan (UNMIS) on draft legislation to strengthen the existing national human rights institution, on 3 February 2009 the Southern Sudan Legislative Assembly passed the Southern Sudan Human Rights Commission Act. Under the Act, the Commission is provided with a monitoring, investigation, advisory and promotional mandate.

24. In March 2009, OHCHR, together with the United Nations Integrated Peacebuilding Office in Sierra Leone, supported the Human Rights Commission of Sierra Leone in developing a capacity development project proposal for fund-raising with a view to supporting the implementation of the Commission's three-year strategic action plan.

25. The establishment of a national human rights institution in the Comoros was discussed in the context of the training on a human-rights-based approach that the OHCHR Regional Office for Southern Africa conducted with partners in Government, civil society and United Nations agencies from 23 to 25 March 2009. OHCHR, together with UNDP, is closely following discussions on the adoption of the legislation establishing a national institution.

26. From 21 to 23 April 2009, OHCHR conducted a joint evaluation mission with the Association francophone des commissions nationales des droits de l'homme to assist the Government of Mali in implementing the outcome of the universal periodic review of Mali, which resulted in a recommendation to strengthen its national human rights institution (see A/HRC/8/50).

27. Constructive discussions on establishing a national human rights institution in Guinea were held with the authorities and civil society in Conakry in April 2009. OHCHR provided comparative information on how best to set up a national institution, including by entrenching it in the Constitution.

28. On 21 April 2009, the National Assembly of the Sudan passed legislation to establish a National Human Rights Commission. This followed advice and assistance from OHCHR and UNMIS on drafts of the law and the appointment process. OHCHR is planning an induction workshop for members of the Commission once they have been appointed.

3. Asia and the Pacific

29. During the reporting period, the OHCHR regional offices in South-east Asia and the Pacific; country offices in Nepal and Cambodia; human rights advisers to United Nations country teams in Indonesia, Papua New Guinea and Sri Lanka; and the human rights components of United Nations peace missions in Afghanistan and Timor-Leste continued to provide advice and assistance in the establishment and strengthening of national human rights institutions in the region of Asia and the Pacific.

30. OHCHR supported a mission by the Asia-Pacific Forum of National Human Rights Institutions to Sri Lanka from 10 to 16 September 2008, led by a representative of the Human Rights Commission of Malaysia. The mission was conducted at the invitation of the Human Rights Commission of Sri Lanka with the aim of discussing the concerns of the International Coordinating Committee that led to the downgrading of the Commission to "B" status in October 2007.

31. From 1 to 6 December 2008, OHCHR, the UNDP Regional Centre in Bangkok and the Asia-Pacific Forum undertook a joint mission to Malaysia to conduct a capacity-needs assessment of the Human Rights Commission of Malaysia. This exercise resulted in a detailed report, including an analytical framework that identified key strategies to address the Commission's capacity needs. The Commission endorsed the report and committed itself to implementing the proposed strategy.

32. On 18 and 19 December 2008, representatives from the Asia-Pacific Forum and OHCHR visited Pakistan to participate in consultations with civil society and parliamentarians on draft legislation to establish a National Human Rights Commission. Following those consultations, OHCHR provided comments on the draft legislation establishing the Commission.

33. The National Human Rights Commission of Bangladesh was established by ordinance in December 2008, following joint efforts by the Asia-Pacific Forum, OHCHR and UNDP Bangladesh. OHCHR and UNDP Bangladesh are actively assisting the newly appointed Commission members in building the institution's capacity and securing its early accreditation by the International Coordinating Committee.

34. In 2009, OHCHR renewed an agreement with the National Human Rights Commission of India for the management of the Commission website, which will be strengthened through the development of a password-protected Intranet version available to members of the International Coordinating Committee.

35. From 12 to 20 January 2009, OHCHR and UNDP undertook a midterm project evaluation mission to review the capacity-building project of the Office of Provedor for Human Rights and Justice of Timor-Leste (2007-2009) with a view to assessing achievements and constraints since the launch of the project and to provide recommendations for the remainder of the cycle. The evaluation concluded that the institution had made important progress in the field of human rights, and that the project had been crucial in providing support for it during the difficult inception phase. The mission also recommended specific measures for the remainder of the project.

36. In February 2009, OHCHR signed guidelines for cooperation with the National Human Rights Commission of Nepal, aimed at strengthening and further defining their partnership. Continuous support has been provided to the National Human Rights Commission, as well as to other stakeholders, to establish credible transitional justice mechanisms. In July 2009, OHCHR and the Commission developed a project for the implementation of joint activities in the context of detention and the rights of detainees.

37. In February 2009, OHCHR, together with the National Human Rights Commission of Indonesia and the Commission on Women's Rights, organized a national dialogue on the implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, aimed at formulating a strategy for monitoring detention centres in Indonesia.

4. Europe

38. During the reporting period, the OHCHR Regional Office in Central Asia, the stand-alone office in Kosovo, the human rights advisers to United Nations country teams in the South Caucasus, Kyrgyzstan, the Republic of Moldova, the Russian Federation, Serbia and the former Yugoslav Republic of Macedonia, and the human rights component of the United Nations Interim Administration Mission in Kosovo have continued to provide advice and assistance in the establishment and strengthening of national human rights institutions in Europe.

39. Following the 2008 evaluation of the Kyrgyzstan Ombudsman institution, financed by the Action 2 initiative, UNICEF and OHCHR, and conducted to assess the institution's effectiveness and capacity gaps, OHCHR held a workshop with the institution on national preventive mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The three-day workshop, held from 24 to 26 July, helped the institution to develop its strategic planning, priority-setting and restructuring according to specialized thematic departments. Furthermore, OHCHR provided a national consultant for a six-month period to support the institution during its restructuring phase. From 10 to 14 November, the Action 2 initiative and UNDP organized a five-day workshop for the institution on complaints procedures. The United Nations then elaborated a three-year technical cooperation project (2009-2011) to further strengthen the institution.

40. In January 2009, technical advice was provided on amendments to the enabling law relating to the Office of the Human Rights Defender of Georgia, with a view to increasing its compliance with the Paris Principles and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment while assuming the functions of a national preventive mechanism.

41. In April 2009, OHCHR provided legal advice on strengthening the enabling law of the Human Rights Commission of the Republic of Moldova and ensuring an early assessment of the compliance of the Commission with the Paris Principles through the International Coordinating Committee accreditation process.

42. In Tajikistan in 2009, OHCHR has provided support to the newly established Ombudsman in setting up the institution, including by developing its strategic plan and internal regulations.

43. OHCHR is also closely following the efforts under way in European countries, including Italy, the Netherlands and Turkey, to establish a national human rights institution in line with the Paris Principles.

5. Middle East and North Africa

44. During the reporting period, the OHCHR regional offices, in the Middle East, the recently established United Nations Human Rights Training and Documentation Centre for South-West Asia and the Arab Region, the stand-alone office in the occupied Palestinian Territory and human rights components in the United Nations Assistance Mission for Iraq (UNAMI) have continued to provide advice and assistance on the establishment and strengthening of national human rights institutions in the Middle East and North Africa region.

45. Means of ensuring further cooperation with the most recently established national human rights institutions in the Middle East, namely, those in Saudi Arabia and the Libyan Arab Jamahiriya, have also been explored.

46. OHCHR is also closely following efforts to establish national human rights institutions in Lebanon, Oman and Bahrain. In this context, OHCHR participated in an international conference on the follow-up of the universal periodic review recommendations, organized by Bahrain and UNDP in November 2008.

47. In December 2008, the Iraqi Parliament approved a law establishing the High Commission for Human Rights of Iraq. This was the outcome of a lengthy process that started in 2006. OHCHR, in cooperation with UNAMI, is supporting efforts to set up the institution and carry out the process of selecting Commission members in conformity with the provisions of the law and international standards.

48. From 8 to 11 August 2009, OHCHR participated in a mission organized and led by the Asia-Pacific Forum of National Human Rights Institutions, to explore the provision of further assistance to the national human rights institution of the occupied Palestinian territory.

B. OHCHR support for regional initiatives related to national human rights institutions

1. The Americas and the Caribbean

49. The seventh General Assembly of the Network of National Human Rights Institutions of the Americas was held in Mérida, Mexico, on 21 November 2008. At the meeting, representatives of the national human rights institutions of Ecuador and El Salvador were elected as the new members of the coordinating body of the Network, and the Defensora del Pueblo of the Bolivarian Republic of Venezuela was appointed as the new Chair.

2. Africa

50. The OHCHR Regional Office for West Africa, with support from the National Institutions Unit, attended a human rights institution workshop for Central and Western Africa, held in Lomé on 19 and 20 January 2009. The workshop, which involved participants from the national institutions of Benin, Burkina Faso, Cameroon, Cape Verde, Chad, the Central African Republic, the Congo, Côte

d'Ivoire, the Democratic Republic of the Congo, Ghana, Guinea, Mali, Mauritania, the Niger, Senegal, Sierra Leone and Togo, highlighted legal and institutional weaknesses common to the majority of national human rights institutions from the two subregions and discussed ways to strengthen those institutions in line with the Paris Principles, with assistance from OHCHR.

51. The OHCHR Regional Office for West Africa is engaged in a process of developing the subregional network of national human rights institutions. Although formally created in 2006 in Banjul, the network is not yet operational. From 12 to 14 February 2009, OHCHR participated in a meeting organized by the Economic Community of West African States in Cotonou and assisted in drafting the statute of the network, to be adopted in 2009.

3. Asia and the Pacific

52. On 2 and 3 March 2009, OHCHR participated in a consultation on the regional initiative in support of the capacity development of national human rights institutions in Asia and the Pacific, organized by the UNDP Regional Centre in Bangkok and the Asia-Pacific Forum. The initiative was launched in 2008 to assist national human rights institutions and UNDP country offices in understanding the strengths and needs of such institutions in the region and to develop strategies to address capacity gaps. The consultation discussed lessons learned from the first pilot capacity development needs assessment of the national institution of Malaysia (see para. 30 above) and explored capacity-development approaches employed to support other national human rights institutions. A second needs assessment, to be conducted by OHCHR, the Asia-Pacific Forum and UNDP, is scheduled to take place with the national institution of Maldives in October 2009.

53. OHCHR, in partnership with the Asia-Pacific Forum and with the support of the Government of Samoa and the Pacific Islands Forum, organized a regional workshop on the theme "Establishment of national human rights mechanisms in the Pacific", which was held in Apia from 27 to 29 April 2009, with a view to enhancing the capacity of Pacific States to establish national mechanisms in line with the Paris Principles. Representatives from the Marshall Islands, Nauru, Niue, Palau, Samoa, Solomon Islands and Vanuatu attended the workshop and adopted the Samoa Declaration, in which they expressed their commitment to promoting the establishment in their respective countries of national human rights institutions compliant with the Paris Principles. A "Making it happen" document, incorporating practical steps to establish an institution tailored to the needs of the Pacific island States, was also elaborated during the workshop.

54. The fourteenth annual meeting of the Asia-Pacific Forum of National Human Rights Institutions was held in Amman from 3 to 6 August 2009, hosted by the Jordan National Centre for Human Rights with assistance from OHCHR. The impact of corruption on the realization of human rights and religious beliefs were key themes during the annual meeting. The Asia-Pacific Forum councillors also discussed suspending the separate Asia-Pacific Forum accreditation process and using the International Coordinating Committee accreditation decisions as evidence of compliance with the Paris Principles for the purpose of membership of the Asia-Pacific Forum. In the long term, such an approach will bring greater consistency and strength to the International Coordinating Committee accreditation process.

4. Europe

55. OHCHR participated in the second meeting between the European Union Agency for Fundamental Rights and the European group of National Institutions for the Promotion and Protection of Human Rights, held in Vienna on 29 June 2009. The meeting focused on, inter alia, the Agency's annual work programme; the European group's strategic plan 2009-2010; the Agency national human rights institution study; and follow-up on discrimination on grounds of sexual orientation and homophobia.

56. OHCHR also participated in the meeting of the coordinating committee of the European group, held in Vienna on 30 June 2009. The meeting focused on International Coordinating Committee developments; the follow-up to the Durban Review Conference; and national human rights institution engagement with the Agency for Fundamental Rights and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE).

5. Middle East and North Africa

57. The United Nations Human Rights Training and Documentation Centre for South-West Asia and the Arab Region, based in Qatar, held an inaugural workshop on the international human rights system in Doha from 27 to 28 May 2009. Sixty participants attended the workshop, including representatives of the national human rights institutions of Afghanistan, Jordan, the Islamic Republic of Iran, Algeria, Tunisia, Morocco, Saudi Arabia, Mauritania, Qatar and the occupied Palestinian territory, who actively shared their experiences of interacting with the international human rights system.

58. OHCHR assisted in the organization of the fifth Conference of National Human Rights Institutions in the Arab region, which was held in Amman on 8 and 9 March 2009, on the theme "Elections in the Arab region and their impact on human rights". Between 70 and 80 participants attended the Conference sessions, including representatives of the national human rights institutions of Algeria, Egypt, Morocco, Jordan, the occupied Palestinian territory, Qatar, Saudi Arabia and Tunisia; representatives of countries that do not have a national human rights institution; non-governmental organizations from Jordan, Iraq and Bahrain; OHCHR, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and UNDP; as well as international organizations, including the National Democratic Institute. Participants adopted a document to assist national human rights institutions in implementing a human rights approach during elections.

C. OHCHR support for international initiatives related to national human rights institutions

1. Ninth International Conference of National Institutions for the Promotion and Protection of Human Rights

59. OHCHR, the Kenya National Commission on Human Rights and the International Coordinating Committee co-hosted the ninth International Conference of National Institutions for the Promotion and Protection of Human Rights, on the theme "National human rights institutions and the administration of justice", held in Nairobi from 21 to 24 October 2008. More than 150 representatives from

70 national human rights institutions worldwide, non-governmental organizations, and international and regional organizations attended the Conference, which focused on lessons learned and best practices developed by national human rights institutions in relation to the judiciary and law enforcement. The Conference unanimously adopted the Nairobi Declaration, which guides national human rights institutions in performing their role in the administration of justice (A/HRC/10/54, annex III).

60. In March 2009, the Human Rights Council adopted, by consensus, resolution 10/2, on human rights in the administration of justice, calling on the Secretary-General and the High Commissioner for Human Rights to, inter alia, strengthen system-wide coordination in this area, including by providing assistance to national human rights institutions in implementing the Nairobi Declaration.

2. International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights

61. In its capacity as secretariat of the International Coordinating Committee, OHCHR provided substantive support to and facilitated the twenty-second session of the Committee, held in Geneva from 23 to 27 March 2009. The agenda included reports of the Committee's governance working group, the working group on sustainable funding and the Subcommittee on Accreditation; issues related to the implementation of the Nairobi Declaration, the Durban Review Conference, regional and international engagement, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, business and human rights, and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and a session on strategic planning that will be continued at the next Committee Bureau meeting, to be held in Rabat on 1 and 2 November 2009.

62. In this context, OHCHR set out its priorities for 2009-2010 for increasing national human rights institution involvement in the human rights system. These include: (a) increasing the knowledge of national human rights institutions about new treaties and optional protocols; (b) encouraging national human rights institutions to play a greater role in encouraging the ratification of new treaties; (c) strengthening treaty body procedures for interaction with national human rights institutions; (d) compiling examples of good practices of interaction; (e) disseminating treaty body concluding observations and recommendations resulting from the universal periodic review process; (f) publicizing the use of the Geneva office of the International Coordinating Committee; (g) encouraging greater national human rights institution involvement in drafting treaty bodies' general comments; and (h) supporting the involvement of national human rights institutions complaints-handling and the use of jurisprudence with respect to the treaty body system. The High Commissioner addressed national human rights institutions at the closing of the meeting.

(a) Report of the governance working group of the International Coordinating Committee

63. The International Coordinating Committee was incorporated as a legal entity under Swiss law in July 2008, and its statute of incorporation was endorsed by the general meeting of the Committee, held in Nairobi in October 2008. The governance

working group, which was established by the Committee in 2007, decided to maintain its current governance structure, although minor amendments to the statute were adopted.

(b) Reports on the implementation of the Nairobi Declaration

64. The chairs of the four regional networks reported on activities undertaken by their members to implement the Nairobi Declaration. The report of the Network of African National Human Rights Institutions included information on initiatives undertaken by members, including advocating for legislative reform; carrying out prison visits; and conducting human rights training for law-enforcement personnel. The report of the Network of the Americas made reference to the competence of national human rights institutions in complaints-handling through conciliation and mediation, lightening the workload on the judicial system, and described the activities of members, such as developing a reparations plan; convening a network for assisting victims of crimes and human rights violations; and educating prison and police department personnel. The report of the Asia-Pacific Forum outlined activities of members in relation to the judiciary and access to justice; legal-aid providers and systems; law enforcement; and places of detention. The European group reported that its strategic plan identifies work on national preventative mechanisms under the Optional Protocol to the Convention against Torture as an area of priority in 2009-2010 and that the group's procedures for amicus interventions before the European Court of Human Rights also identify the rule of law/counter-terrorism as one of the priority areas for interventions.

(c) Reports on the engagement of national human rights institutions at the international and regional levels

65. The regional Chairs gave an overview of their members' engagement at the international and regional levels. The representative of the Geneva office of the International Coordinating Committee focused on developments related to the Human Rights Council and its special procedures and treaty bodies since her report at the ninth International Conference in October 2008. She emphasized that the Committee's strategic plan for interaction with the Human Rights Council had been very helpful in setting priorities and planning communication with the Council. She recommended that the Committee's next strategic plans take into account thematic priorities.

(d) Parallel events

66. In the margins of the twenty-second session of the International Coordinating Committee, three workshops were held, on the themes "The role of national human rights institutions in detention monitoring", "The Optional Protocol to the Convention against Torture: national human rights institutions and national preventive mechanisms" and "The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights" (section VI below).

67. At the end of the twenty-second session, OHCHR, together with Rights and Democracy and the Network of the Americas, organized a workshop on the universal periodic review and the international human rights system.

3. Subcommittee on Accreditation

68. OHCHR provided secretarial support to the meetings of the Subcommittee on Accreditation in November 2008 and March 2009. As of June 2009, 66 national human rights institutions were accredited with "A status" by the International Coordinating Committee. Over the year, the Subcommittee continued to strengthen its working methods to make the process more rigorous, transparent and independent, including by making publicly available detailed summaries on each applicant institution (see A/HRC/10/55). In June 2009, the guidelines and template for accreditation applications were revised to be more user-friendly and reflective of the new requirements and procedures under the statute of the International Coordinating Committee. The working methods of the Subcommittee on Accreditation are also being revised so as to take into account views and recommendations from the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for applicant national human rights institutions that have been designated as national preventive mechanisms under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

69. OHCHR has also increasingly prioritized direct engagement with national human rights institutions around the world to encourage them to apply to the International Coordinating Committee for accreditation where they have not done so, as well as to follow up on the recommendations issued by the Committee.

III. Cooperation between United Nations human rights mechanisms and national human rights institutions

A. Human Rights Council

70. OHCHR is supporting national human rights institution participation in and engagement with the Human Rights Council, in line with Commission on Human Rights resolution 2005/74 and the past practice of the Commission. More than 20 national human rights institutions participated in the eleventh session of the Human Rights Council, held in Geneva from 2 to 18 June 2009. Institutions were very active before and during the session, presenting statements, participating in general debates and interacting with the special rapporteurs.

71. With regard to Council mechanisms, national human rights institutions have been given a significant role at all stages of the universal periodic review process, including the submission of documentation, the stakeholders' report, attendance of the review, and the continuing follow-up to recommendations. In 2008, 64 countries were reviewed under the universal periodic review. Of these, 28 have a national human rights institution, 27 of which submitted information for inclusion in the stakeholders' report.

B. Treaty bodies

72. In 2008, 82 of the countries examined by treaty bodies had a national human rights institution. Of those institutions, 39 participated in the treaty body process, including by submitting alternative reports or attending the sessions.

73. The reports to the General Assembly of the secretariat of both the Convention against Torture and the Convention on the Rights of the Child have recognized the important role of national human rights institutions in their processes. The Human Rights Committee has a dedicated focal point for national human rights institutions. In 2009, the secretariat of the Convention against Torture launched a special website for national human rights institutions, with practical information on how to interact with it.

74. Since 2003, OHCHR has been involved in the European Union-funded project on the strengthening of the implementation of human rights treaty recommendations through the enhancement of national protection mechanisms. The aim of the project is to improve the national implementation of treaty body conclusions and recommendations by strengthening the capacity of national human rights institutions, non-governmental organizations and the media to participate in the reporting process and use international instruments and treaty body recommendations in their respective areas of work. Under the project, national workshops were held in Morocco and Indonesia (December 2008) and regional workshops were held in Panama (27-29 August 2008) and Thailand (18-20 March 2009).

C. Special procedures

75. During the reporting period, many national human rights institutions interacted with special procedures mandate holders and submitted written contributions to complement their reports on country missions to sessions of the Human Rights Council.

76. On 25 and 26 October 2008, OHCHR, in collaboration with the Representative of the Secretary-General for the Human Rights of Internally Displaced Persons and the Brookings-Bern Project on Internal Displacement, organized a seminar in Nairobi on the role of African national human rights institutions in protecting the human rights of internally displaced persons.

77. On 30 June 2009, an interactive dialogue was held by special procedures mandate holders, national human rights institutions and non-governmental organizations as part of the sixteenth annual meeting of special procedures. The representative of the Geneva office of the International Coordinating Committee presented a statement on enhancing cooperation between national human rights institutions and mandate holders, in particular as part of the follow-up mechanisms developed by some mandate holders and through Human Rights Council deliberations.

D. Durban Review Conference

78. OHCHR supported national human rights institutions in participating actively in the Durban Review Conference, including by providing financial assistance to "A status" national human rights institutions (with priority accorded to those from the least developed countries); developing a national human rights institution webpage on the official conference website; and working with the International Coordinating Committee working group on the Durban process.

79. Representatives of 39 national human rights institutions from all regions participated in the Durban Review Conference, including in a side event co-organized by OHCHR and the International Coordinating Committee to share best practices on, and key challenges to, monitoring racism, discrimination, xenophobia and related intolerance. Participants committed themselves to strengthening monitoring and implementation in relation to racism, and identified 14 priorities aimed at increasing their engagement against racism and related intolerance at the national, regional and international levels (for further details, see www.nhri.net).

80. National human rights institutions also identified a number of relevant follow-up activities: (a) the establishment of focal points within national human rights institutions; (b) the establishment of a network among the focal points; (c) the sharing of examples of good practices and resources on implementation of the related priorities through the website of the National Human Rights Institution Forum; (d) strengthening the relationship with OHCHR on anti-discrimination matters; and (e) requesting the International Coordinating Committee to place the Durban process on the agenda of its next meeting.

IV. Cooperation between OHCHR, United Nations agencies and programmes and international and regional organizations on national human rights institutions

A. United Nations country teams

81. During the reporting period, OHCHR continued to strengthen its cooperation with United Nations country teams worldwide. In cooperation with UNDP and the national human rights institutions of Denmark, India, South Africa and Uganda, OHCHR developed a toolkit for country team staff, which provides practical tools and guidance on supporting the establishment, consolidation or assessment of national human rights institutions. It explains issues, identifies good practices and proposes strategies for projects aimed at supporting organizational development and capacity for the work of national human rights institutions. A joint OHCHR-UNDP event was held in Johannesburg, South Africa, from 25 to 27 May 2009 to discuss and validate the toolkit. The launch of the toolkit is expected in October 2009.

B. United Nations Development Programme

82. Strengthening cooperation and partnerships with UNDP on technical assistance for national human rights institutions remains a key priority for OHCHR, as shown, for example by its participation in the regional initiative in support of the capacity development of national human rights institutions in Asia and the Pacific (see paras. 30 and 52 above). Joint technical assistance projects and missions have been undertaken in Nepal (capacity development project for the National Human Rights Commission, phase two), Timor-Leste (project evaluation mission), Indonesia (joint technical cooperation project) and Sri Lanka.

C. United Nations Educational, Scientific and Cultural Organization

83. OHCHR attended the meeting of the Steering Committee of the Permanent Forum of Arab-African Dialogue on Democracy and Human Rights, held in Paris on 25 and 26 May 2009. The meeting, organized by UNESCO and the national human rights institution of Egypt, brought together about 24 representatives of Governments, national human rights institutions, non-governmental organizations, regional organizations (League of Arab States, African Union, Arab Inter-Parliamentary Union, Pan-African Parliament) and international organizations (International Organization of la Francophonie).

D. United Nations Children's Fund

84. During the reporting period, OHCHR participated in a number of events organized by UNICEF on national mechanisms for children's rights, such as the conference on the creation of an independent institution to promote the rights of the child in Italy, organized by UNICEF and the Italian Government on 15 December 2008; and the regional seminar on the theme, "Creation of independent human rights institutions for the promotion and protection of the rights of the child: effective approaches for African French-speaking countries", organized by the UNICEF Regional Office for West Africa, the Innocenti Research Centre and the International Organization of la Francophonie in Bamako on 22 and 23 June 2009. In those contexts, OHCHR stressed the importance for national human rights institutions of having a broad mandate and for specialized institutions of being be in line with international standards.

E. Association of Mediterranean Ombudsmen

85. OHCHR participated in the second meeting of the Mediterranean Ombudsman network, held in Marseille, France, on 18 and 19 December 2008, organized by the Mediator of the French Republic in collaboration with the Wali Al Madhalim of Morocco and the Spanish People's Defender, on the theme "Mediterranean mediators: challenges of a common area". Twenty-eight representatives from mediation institutions in the Mediterranean basin, national human rights institutions or institutions acting as mediators in the States where ombudsman institutions do not yet exist attended the meeting, as well as representatives of supporting international and regional organizations.

F. International Ombudsman Institute

86. OHCHR attended the ninth International Ombudsman Institute World Conference, held in Stockholm from 9 to 12 June 2009. In addressing the meeting, the High Commissioner focused on current challenges to the protection and promotion of human rights, stressed the growing importance of the role of national human rights institutions and Ombudsman institutions in the promotion and protection of human rights at the national, regional and international levels; and encouraged increased cooperation among regional and international associations of ombudsmen and national human rights institutions in the context of the Paris

Principles, as well as between these organizations and the United Nations system as a whole.

G. Regional human rights mechanisms

87. In November 2008, representatives from national human rights institutions worldwide participated in a workshop organized by OHCHR at the request of the Human Rights Council (see resolution 6/20) to discuss good practices, added value and challenges for engagement with regional human rights mechanisms. The workshop recommended the establishment of a dedicated focal point in OHCHR to facilitate future networking and information-sharing on regional human rights mechanisms. The focal point was subsequently established within the OHCHR National Institutions Unit and is tasked with facilitating and coordinating further action by OHCHR.

V. Cooperation with non-governmental organizations and academic institutions

A. Non-governmental organizations

Non-governmental organization forum (Nairobi)

88. As part of the ninth International Conference of National Human Rights Institutions, a non-governmental organization forum was held on improving access to justice for vulnerable groups through partnerships between non-governmental organizations and national human rights institutions, with over 100 international, regional and national participants. In addressing the Forum, OHCHR stressed the role of national human rights institutions in protecting vulnerable groups, victims of human rights violations and human rights defenders. The forum developed a plan of action for cooperation between national human rights institutions and non-governmental organizations.

B. Academic institutions

Bristol University

89. In 2008 and 2009, OHCHR strengthened its partnership with the Bristol University research programme team on the Optional Protocol to the Convention against Torture. OHCHR participated in a round table on the Convention in the OSCE region, held in Prague on 25 and 26 November 2008, and in two round tables on the Convention, held in Bristol, United Kingdom, on 20 and 21 May 2009, which were attended by international and regional experts, including the Convention Subcommittee on the Prevention of Torture and the European Committee for the Prevention of Torture, thereby contributing to consideration of the role and functions of national human rights institutions in torture prevention.

VI. Thematic issues

A. Business and human rights

90. At its meeting in March 2009, the International Coordinating Committee established a nine-member working group on business and human rights, consisting of two national human rights institutions per region and a representative of the Chairperson of the International Coordinating Committee. The working group's mandate includes strategic planning; capacity-building and resource-sharing; and agenda-setting and outreach. The working group will hold its first meeting in Copenhagen in 2009.

91. On 5 June 2009, approximately 30 representatives from national human rights institutions, non-governmental organizations and Member States met at a side event to the eleventh session of the Human Rights Council, organized by the International Coordinating Committee in collaboration with OHCHR, to discuss the emerging role of national human rights institutions in the area of business and human rights, focusing in particular on the issues canvassed by the Special Representative of the Secretary-General on human rights and transnational corporations.

B. Economic, social and cultural rights

92. A side event was held during the twenty-second session of the International Coordinating Committee, focusing on national human rights institutions and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Panellists at the event described the framework of the Optional Protocol and discussed the justiciability of economic, social and cultural rights, which is likely to become more established domestically once international jurisprudence is developed. The discussions highlighted the fact that the role of national human rights institutions in implementing the Optional Protocol involves, in particular, changing attitudes through human rights promotion, building a domestic constituency and applying its non-judicial complaints procedures.

C. Detention

93. A side event held during the twenty-second session of the International Coordinating Committee provided a forum for national human rights institutions to share experiences and initiatives on detention monitoring and contribute directly to a joint publication by the Harvard University Human Rights Programme and OHCHR. The discussions focused on structural issues (e.g., access, resources, scope of jurisdiction) and policy issues (e.g., vulnerable groups, complaints-handling, visitation protocols and follow-up mechanisms) in relation to detention monitoring. The discussion underlined the importance of detention monitoring, not just in terms of preventing torture, but also for issues such as arbitrary detention, discrimination and access to medical care.

D. Education

94. In 2008, the Human Rights Council requested the Human Rights Council Advisory Committee to prepare a draft declaration on human rights education and training to be submitted to the Council at its March 2010 session (see Human Rights Council resolution 10/28). To that end, the Advisory Committee sought the views and input of relevant stakeholders, including national human rights institutions. At the twenty-second session of the International Coordinating Committee, the Consultative Council on Human Rights of Morocco was mandated to facilitate national human rights institutions input to the draft declaration on human rights education and training on behalf of the Committee.

E. Migration

95. The National Human Rights Commission of the Republic of Korea hosted a conference on the promotion and protection of the rights of migrants in a multicultural society, held in Seoul on 10 and 11 November 2008, which brought together national human rights institutions in Asia to discuss their role in relation to migrants' rights and identify priorities and strategies. The conference adopted guidelines that include practical steps for national human rights institutions to ensure the protection of migrants' rights.

F. National human rights institutions, torture prevention and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

96. A side event was held during the twenty-second session on the experience of national human rights institutions in connection with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as developed so far. The discussions showed that, while there is no set model for the creation of a national preventive mechanism, national institutions have a significant role to play in relation to the Optional Protocol, either by acting as national preventive mechanisms, coordinating the work of such mechanisms, or effectively interacting with the designated mechanism. The important role of national human rights institutions at the international level (e.g., interactions with the Subcommittee on Prevention of Torture) was also noted, and increased communication between national human rights institutions and the Subcommittee was encouraged.

G. Transitional justice

97. On 21 January 2009, OHCHR released a guidance note on national human rights institutions and transitional justice, developed in consultation with a number of experts and national institutions. The purpose of the guidance note is to assist national human rights institutions in their engagement on transitional justice issues, and it describes challenges and opportunities faced by such institutions. The note highlights applicable international standards, provides examples of relevant national

institution country experiences and makes recommendations regarding their engagement.

H. Sixtieth anniversary of the Universal Declaration of Human Rights

98. In 2008, the Secretary-General launched a year-long campaign to commemorate the sixtieth anniversary of the Universal Declaration of Human Rights, focused on the theme "dignity and justice for all of us". In this context, OHCHR paid special attention to the rights of people deprived of their liberty in prisons and other places of detention. OHCHR specifically designated 6 to 12 October 2008 as "Dignity and Justice for Detainees Week", and invited national human rights institutions and other partners to conduct focused activities in, or related to, places of detention during that week and throughout 2008. Ten national human rights institutions and two non-governmental organizations participated in the initiatives sponsored by OHCHR in the framework of the sixtieth anniversary.

VII. Conclusions

99. **National human rights institutions compliant with the Paris Principles are key elements of a strong, effective national human rights protection system. They play a crucial role in translating international human rights norms into national laws and practices; supporting Governments to ensure their application; monitoring and addressing core human rights concerns at the national level (such as torture, arbitrary detention and human trafficking); protecting the work of human rights defenders; and contributing to the fight against discrimination on all grounds. National human rights institutions that are in compliance with the Paris Principles can be a first port of call for victims of human rights violations. The Secretary-General encourages them to play an important role in the fight against impunity and, crucially, to advocate for accountability and justice.**

100. **In this context, the Secretary-General welcomes the adoption, at the ninth International Conference of National Institutions for the Promotion and Protection of Human Rights, of the Nairobi Declaration as testimony of the growing commitment of national human rights institutions to strengthening the administration of justice and the rule of law. The Secretary-General encourages follow-up activities by national human rights institutions on rule-of-law activities, in close cooperation with United Nations offices and human rights field presences.**

101. **The Secretary-General urges national human rights institutions to constructively cooperate with national civil society organizations in the promotion and protection of human rights. National human rights institutions and non-governmental organizations can reinforce each other's efforts at the national, regional and international levels in order to promote and protect human rights.**

102. **The Secretary-General encourages national human rights institutions to play an active role in the international human rights system, especially in the Human Rights Council, its universal periodic review mechanism and the special**

procedures, as well as the human rights treaty bodies. National human rights institution engagement enriches the deliberations of those bodies by contributing independent national expertise to their deliberations, while also enhancing the effectiveness of follow-up action at the national level of recommendations resulting from the international human rights mechanisms.

103. In this regard, the Secretary-General welcomes the incorporation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights as an association under Swiss law, which will further strengthen the role of the International Coordinating Committee network, regional coordinating bodies of national human rights institutions and such institutions themselves in the international human rights system.

104. The Secretary-General welcomes the financial and substantive support given to the International Coordinating Committee by OHCHR, including continued assistance for Committee meetings, the Committee accreditation process and international conferences of national human rights institutions.

105. The Secretary-General notes with satisfaction the increasing rigorousness, fairness and transparency of the accreditation process carried out by the Subcommittee on Accreditation of the International Coordinating Committee, with the support of OHCHR, and stresses the importance of this process in ultimately strengthening the national human rights protection system. In this context, the Secretary-General acknowledges the tailored and time-bound recommendations issued as a result of reviews of national human rights institutions. The Secretary-General also welcomes the continuing development of general observations by the International Coordinating Committee, serving as an additional interpretative tool of the Paris Principles.

106. The Secretary-General also notes with appreciation the continuing work of the regional networks of national human rights institutions in Europe, the Americas, Asia and the Pacific and Africa and encourages greater cooperation between the regional networks and OHCHR.

107. Within OHCHR, the Secretary-General welcomes the continuation and strengthening of the National Institutions Unit fellowship programme in 2009.

108. Fostering strong partnerships system-wide to build on the capacities and expertise of United Nations entities is central to achieving this objective. For this reason, the Secretary-General welcomes the development of an OHCHR-UNDP toolkit for United Nations country team staff on the establishment and strengthening of national human rights institutions.

109. The Secretary-General welcomes the adoption of resolution 63/169 by the General Assembly on the role of Ombudsman institutions, which, inter alia, underlines the importance of the autonomy and independence of the Ombudsman, mediator and other national human rights institutions. The Secretary-General echoes the High Commissioner's call for greater cooperation between national human rights institutions and Ombudsman institutions, as well as her encouragement to Ombudsman institutions to actively draw on the standards enumerated in international instruments and the Paris Principles to strengthen their independence and increase their capacity to act as national protection mechanisms.

110. **Finally, the Secretary-General stresses the importance of the financial independence and stability of national human rights institutions for the effective execution of their mandates, especially in times of financial crisis.**

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Operational activities for development: South-South cooperation for development

The state of South-South cooperation

Report of the Secretary-General

Summary

The present report is being submitted in response to resolution 62/209, on the state of South-South cooperation, in which the General Assembly requested the Secretary-General to prepare a comprehensive report on the implementation of resolution 62/209 for submission at its sixty-fourth session.

The report reviews the progress, main trends and challenges in South-South cooperation for development during the period from 2007 to mid-2009, especially in the areas of regional integration, trade, investment, and monetary and financial cooperation, and provides a basis for forward-looking priorities and recommendations.

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I. Introduction

1. The present report provides an overview and analysis of the major trends and significant developments relating to South-South cooperation in the period from 2007 to mid-2009. The period was marked by a significant decline in world economic growth and the collapse of major financial institutions. That exacerbated the rise of transnational threats to development, including in the areas of climate change, energy, and food security, and the spread of global pandemics such as HIV/AIDS and, more recently, influenza A(H1N1).

2. Developing and developed countries alike continue to prioritize the strengthening of regional, interregional and global institutional mechanisms aimed at mitigating the impact of the financial crisis through mutual partnerships and regional and global cooperation mechanisms. The surge in regional and interregional South-South cooperation noted in the previous report of the Secretary-General (A/62/295) continued in the period under review.

3. Among the key issues that have emerged as significant areas of South-South and triangular cooperation are those that are global and transnational in scope, such as climate change, energy and the environment. Developing countries have also consolidated interregional, regional and subregional cooperation to address larger, global trends such as the increasing vulnerability of countries to financially volatile markets, rapid rates of urbanization, epidemics and declining food security.

4. In his previous report, the Secretary-General called on the international community, including the United Nations development system, to: (a) orient South-South efforts towards achieving the internationally agreed development goals, including the Millennium Development Goals; (b) intensify multilateral support for South-South cooperation initiatives to address common development challenges; (c) foster inclusive partnerships for South-South cooperation, including triangular and public-private partnerships; (d) improve the coherence of United Nations system support for such cooperation through closer inter-agency collaboration; and (e) encourage innovative financing mechanisms for South-South cooperation. During the reporting period, the international community, including the United Nations development system, made important progress in helping to advance South-South and triangular cooperation for development. The present report highlights the progress made by the relevant development partners, identifies existing challenges and provides a basis for forward-looking priorities and recommendations.

II. State of South-South and triangular cooperation

A. Economic perspective

5. The overall trend prior to the current economic crisis had been a remarkable rise in South-South trade, finance and investment flows. South-South merchandised trade had grown with significant speed during the period since 1995, on average by 13 per cent per year, reaching $2.4 trillion, or 20 per cent of world trade, in 2007, while the annual rate of growth in world trade was 9 per cent.[1] During the period, the share of South-South exports in total exports increased by 7 per cent in Africa,

[1] See TD/B/C.II/MEM.2/2.

4 per cent in Asia and 3 per cent in Latin America and the Caribbean.[2] Nevertheless, the United Nations Conference on Trade and Development (UNCTAD) estimates that exports from the developing world could decline by 9.2 per cent in 2009.

6. While South-South trade and investment flows have increased over the past decade, many other socio-economic trends underscore the need for stronger South-South cooperation arrangements. Owing to the current economic crisis, the vast majority of countries are experiencing a sharp reversal of the robust growth that occurred during the period 2002-2007. Among 160 countries included in an UNCTAD analysis, the number that had an annual growth in gross domestic product (GDP) per capita of 3 per cent or higher dropped from 106 in 2007 to 83 in 2008 and is expected to decline to 52 in 2009. Among developing countries, the number is estimated to have dropped from 70 in 2007 to 57 in 2008 and is expected to decline further to 29 in 2009.[3] In Africa alone, economic growth is expected to decrease to 4.1 per cent in 2009 from 5.1 per cent in 2008.[4]

7. Foreign direct investment is a significant source of investment for many least developed countries. More than 40 per cent of foreign direct investment from developing countries goes to least developed countries. Regionally, in Africa, more than 50 per cent of all foreign direct investment inflows into Botswana, the Democratic Republic of the Congo, Lesotho, Malawi and Swaziland have come from South Africa. In Asia, more than 50 per cent of all such flows to Cambodia, the Lao People's Democratic Republic and Myanmar between 2002 and 2007 were from other developing countries in Asia. Investors from Argentina, Brazil, Chile and Mexico have become significant regional players in Latin America owing to regional integration and the rise of transnational corporations in the region.[5]

8. Developing countries have also become increasingly important sources of development assistance to other developing countries. The largest providers of such support from the South, each providing at least $1 billion per year, are China, India, Saudi Arabia and the Bolivarian Republic of Venezuela. Total flows may grow to more than $15 billion by 2010 if pledges are kept. Other emerging economies such as those of Brazil, Nigeria and South Africa continue to contribute to development assistance for least developed countries through multilateral institutions and mechanisms. Brazil, for example, has assisted Mozambique in establishing biodiversity programmes and has promoted biofuel technology in other developing countries. It has also played a significant role in developing HIV/AIDS relief programmes in Latin America.

9. Donors that are not members of the Organization for Economic Cooperation and Development Development Assistance Committee, including those from the South, private foundations and philanthropic channels, are growing in influence. Private giving and philanthropy now constitute approximately 25 per cent of global development assistance flows.[6] Such figures indicate that successful public-private partnerships and innovative mechanisms can go beyond intergovernmental

[2] Ibid.

[3] *World Economic Situation and Prospects 2009*, United Nations publication, Sales No. E.09.II.C.2, p. 5.

[4] Ibid., p. ix.

[5] TD/B/C.II/MEM.2/2, para. 11.

[6] *World Economic Situation and Prospects 2009*, p. 76.

exchanges to benefit developing countries and boost economic growth through demand-driven exchanges.[7]

10. However, economists predict that if the global recession continues, South-South foreign direct investment could fall markedly, affecting the capacity of transnational corporations from developing countries to invest in other developing countries. At the Multi-year Expert Meeting on International Cooperation: South-South Cooperation and Regional Integration, hosted by UNCTAD in Geneva in February 2009, participants explored ways to help insulate the South from the full effects of the financial crisis. At the conference, there was a consensus among leaders that developing countries may soften the impact on their economies by increasing cooperation with other nations of the South.[8]

11. The present economic situation has also been marked by extreme volatility in commodity and oil prices. In 2009, oil prices rapidly decreased by 60 per cent from their peak levels, achieved during the period from July to November 2008. Growth of world trade declined significantly, from 6.4 per cent in 2007 to 4.3 per cent in early 2008, and the downward trend is expected to continue through 2009, affecting agricultural production and the price of energy globally.

12. Since 2007, extreme poverty in sub-Saharan Africa has increased by almost 8 per cent, exacerbating a growing food crisis. According to the Food and Agriculture Organization of the United Nations (FAO), 36 countries are now in "critical" food situations. An alarming number of people, estimated at 109 million to 126 million, in South Asia and sub-Saharan Africa may have fallen below the $1.25-a-day poverty line since 2006 as a result of rising food prices. It is estimated that at least 125 million people in developing countries have been forced into extreme poverty because of the surge in global food prices since 2006.[9]

13. Among least developed countries, average growth rates declined from 7.8 per cent in 2007 to 6.4 per cent in 2008, breaking a four-year trend of growth over 7 per cent.[10] Many least developed countries are net food importers and have therefore been strongly affected by the rise in commodity food prices, deteriorating terms of trade and widening current-account deficits. The surge in food prices has led to double-digit levels of inflation and has sparked food riots in at least eight countries within the least-developed-country category: Burkina Faso, Guinea, Haiti, Mauritania, Mozambique, Senegal, Somalia and Yemen.[11]

B. Global commitments renewed

14. Paradoxically, the rapid deterioration of the global economy over the past several years has created a number of new opportunities for South-South cooperation, as many countries now look to one another and to their innovative cooperation mechanisms to facilitate market recovery and ensure greater stability in future at the global and local levels.

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[7] See http://www.ipsnews.net/columns.asp?idnews=42719.

[8] See http://ictsd.net/i/news/bridgesweekly/40497.

[9] *World Economic Situation and Prospects 2009*, p. ix.

[10] Ibid., p.7.

[11] Ibid.

15. While continuing to place the development agenda at the fore in international negotiations, the Group of 77 has been the leading voice of the South on the measures needed to minimize the adverse impact of global crises on developing countries. It has also led the way in articulating South-South policy responses to old and emerging development challenges. The development and adoption in 2008 by the Ministers of the G-77 of the Development Platform for the South, which contains a set of principles for South-South cooperation, and the launch of the South Fund for Development and Humanitarian Assistance reflect the Group's firm commitment to advancing South-South cooperation for development.

16. Building on the Heiligendamm Group of Eight Summit of 2007, both the Group of Eight and the Outreach 5 (comprising the emerging economies of Brazil, China, India, Mexico and South Africa) have since stepped up cooperation in areas including climate change, energy, research and innovation, and cross-border investment. In 2009, the Group of Eight convened in L'Aquila, Italy, and agreed to commit $20 billion to fund agricultural development over a three-year period to address severe food shortages in developing countries. Leaders affirmed the importance of South-South cooperation by issuing a statement indicating that the sharing of information and best practices, including through North-South, South-South and triangular cooperation, was essential to promoting knowledge-based policy and national capacity. Indeed, a key provision of the agreement is country ownership to promote food security regionally and locally.[12]

17. In 2006, OECD launched a Global Forum on Development with the aim of improving the dialogue on development issues between OECD and non-member Governments, as well as a variety of private-sector and civil society actors. The first annual plenary of the Forum was held in Paris on 3 April 2007 with the participation of a substantial number of southern countries and the members of OECD that are not Development Assistance Committee members, and the topic of emerging economies and development assistance was addressed.

18. According to the OECD *Development Cooperation Report 2009*, the seven OECD countries that are not members of the Development Assistance Committee provided a total of $5.56 billion in official development assistance in 2007 alone, as follows: Czech Republic, $179 million; Hungary, $103 million; Iceland, $48 million; Poland, $363 million; the Republic of Korea, $699 million; Slovakia, $67 million; and Turkey, $602 million.[13] Contributions from those countries have added a new dynamism to an enlarged international development agenda encompassing South-South, East-East, East-South and triangular cooperation, within the framework of achieving Millennium Development Goal 8. It is believed that Mexico, another member of OECD that is not a Committee member, which was not included in the OECD table on official development assistance from non-Committee donors, also provides sizeable assistance to developing countries.

19. The Inter-Parliamentary Union is helping to bring the topic of South-South cooperation to the fore on the political agenda in national parliaments. Its Standing Committee on Sustainable Development, Finance and Trade will hold a major debate on the theme "The role of parliaments in developing South-South and triangular cooperation with a view to accelerating achievement of the Millennium

[12] Chege, Kimani, "G-8 Pledges $US 20 billion for agriculture", SciDevNet, 11 July 2009, available at www.scidev.net.

[13] OECD, *Development Cooperation Report 2009*, p. 235.

Development Goals" at its one hundred and twenty-second Assembly, to be convened in Bangkok from 27 March to 1 April 2010. Preparations for the debate have already begun and include a background report drafted by two members of parliament, one from Belgium and one from Zambia. Pursuant to General Assembly resolution 63/24, the Inter-Parliamentary Union is also actively engaged in the 2010 Development Cooperation Forum and its preparatory process, including all high-level symposiums dealing with South-South cooperation.

C. Regional and subregional cooperation accelerated

20. More than ever before, it is clear that South-South cooperation presents a benefit to countries regardless of their level of development and is also a necessity for countries that wish to address successfully a host of transnational challenges. The current period has, in most cases, encouraged the consolidation of international, regional and national commitments to development cooperation through South-South partnerships despite changes in the economic prospects of developed and developing countries.

Africa

21. In Africa, regional organizations such as the African Union have played a key role in facilitating South-South exchanges through regional and interregional partnerships while consolidating economic integration. The African Union aims to form a single confederation united through free trade among members, with a customs union, a single market, a central bank and a common currency by 2023 under a single economic and monetary union. In June 2008, a memorandum of understanding was signed by the Commissioner for Economic Affairs of the African Union Commission and the Minister of External Relations of Cameroon to establish Cameroon as the host country for the African Monetary Fund. The African Union has also taken steps to strengthen ties with other southern partners in signing a memorandum of understanding with the Arab Bank for Economic Development in Africa in June 2008, strengthening the ties between the two institutions and encouraging the provision of technical and financial assistance on the part of the Bank.[14]

22. African leaders have also continued to promote regional development cooperation through comprehensive regional institutions such as the New Partnership for Africa's Development (NEPAD) of the African Union and the Millennium Development Goals Africa Steering Group, established in 2008 to monitor progress in achieving the Millennium Development Goals on the continent. The Comprehensive Africa Agriculture Development Programme of NEPAD has as its goals a 6 per cent average annual growth rate at the national level in the agricultural sector and the allocation of 10 per cent of national budgets to agriculture. In 2008, it issued a report in which it estimated that the external financing needed to reach the Millennium Development Goals in Africa would amount to $72 billion a year, reflecting the combined commitments of the European Union and the Group of Eight in aid to sub-Saharan Africa.

[14] *African Union Commission News*, issue 31, June 2008.

23. Subregional organizations in Africa have also played an important role in the implementation of measures agreed at the regional and international levels. On 22 October 2008, the Southern African Development Community, with more than half of the aggregate GDP of the whole of sub-Saharan Africa, joined with the Common Market for Eastern and Southern Africa and the East African Community to form the historic African free trade zone, which comprises 26 countries with an estimated GDP of $624 billion. In addition to eliminating duplicative membership, the African Free Trade Zone further aims to strengthen the bloc's bargaining power during the negotiation of international deals.

24. Other subregional organizations such as the East African Community aim to widen and deepen regional cooperation in the political, economic and social fields. In 2005, member States of the Community established a customs union, and they are working towards the establishment of a common market by 2010, a monetary union by 2012 and, eventually, a political federation of the East African States. Enlarged in 2007 to include Burundi and Rwanda, the East African Community has a combined GDP of $41 billion and has gained increasing prominence in the political spheres of Africa.

25. The East African Community has proposed a number of significant institutions and mechanisms to promote regional development. These include an East African science and technology council to promote the exchange of research and development in addressing common development challenges such as food security, pollution and disease,[15] and a regional East African Community health policy initiative that would promote health research for policymaking.

Arab States

26. Arab States have also engaged extensively in South-South cooperation in areas that are unique to the region and its own development challenges. Countries such as Qatar continue to play a significant role in promoting South-South cooperation in areas unique to petroleum-exporting countries, such as the oil and gas sector. A high-level meeting on oil and gas management was held in Doha from 8 to 10 September 2007, bringing together high-level representatives from 42 countries in Africa, the Arab States, Asia and Latin America as well as international organizations, including United Nations agencies, to share and exchange experiences and lessons in effective hydrocarbon management.

27. Gulf countries are also placing a high priority on the sharing of technology, as evidenced by the establishment in 2009 of the Technology Exchange Forum by the Standing Committee on Scientific and Technological Cooperation of the 57-member Organization of the Islamic Conference. The Forum will facilitate the transfer of local and domestic technologies in engineering, pharmaceuticals, medicine, agriculture, biotechnology, agro-food and energy to other countries of the Organization of the Islamic Conference.[16]

28. The second Arab-South American Summit, held in March 2009, resulted in the signing of a new Doha Declaration, which urges South-South cooperation to

[15] Nordling, Linda, "Africa analysis: a common vision for East Africa?", SciDevNet, 2 April 2009, available at www.scidev.net.

[16] Sawahel, Wagdy, "Islamic countries establish tech-sharing forum", SciDev.Net, 23 April 2009, available at www.scidev.net.

promote capacity-building and the exchange of expertise in development, innovation and the fight against poverty. During the meeting, leaders agreed to forge closer ties between the two regions in the areas of trade, politics and culture. The Declaration covers an extensive number of economic issues and builds on agreements reached at the first Summit, held in Brazil in 2005. Indeed, economic cooperation between the two sides has grown tremendously over the past several years. The volume of trade between Brazil and the Arab countries was approximately $21 billion at the end of 2008, compared with $8.8 billion in 2005.

Asia and the Pacific

29. In Asia and the Pacific, regional integration efforts have been spurred by concerns over the vulnerability of the countries of the region to financial shocks similar to those that occurred in the late 1990s. As a result, Asia has undergone rapid regional integration in recent years and has expanded its scope and mandate. Economic integration has been strengthened and consolidated in Asia, as evidenced by the launching of the Charter of the Association of Southeast Asian Nations (ASEAN), which was signed in November 2007 and entered into force in December 2008. The Charter establishes ASEAN as a legal entity, composed of a single free-trade area for the 500 million people living in the region. The 10-member ASEAN expanded its partnerships in February 2009 by signing a free trade agreement with Australia and New Zealand, expected to result in an increase of its aggregate GDP across the 12 countries of more than $48 billion over the period 2000-2020.

30. ASEAN celebrated its fortieth anniversary in 2007. During that year, the Cebu Declaration on East Asian Energy Security was signed on 15 January by the member countries of ASEAN and members of the East Asia Summit, including Australia, China, India, Japan, New Zealand and the Republic of Korea, to promote energy security through the active search for alternative energy supplies.

31. The theme of the fourteenth ASEAN summit, held in 2009, was "ASEAN Charter for ASEAN peoples" and had three sub-themes: "Towards more effective community-building", "Enhancing regional resilience against global threats" and "Reinforcing ASEAN centrality in the evolving regional architecture". Ministers at the summit worked to consolidate ASEAN through the establishment of more specific guidelines along the lines of the Charter. In March 2009, member States signed the Cha-Am Hua Hin Declaration on the road map for an ASEAN community (2009-2015), with a view to further institutionalizing ASEAN. Leaders also issued a Joint Declaration on the Attainment of the Millennium Development Goals in ASEAN as well as the ASEAN Integrated Food Security Framework and the Strategic Plan of Action on Food Security in ASEAN.

32. At the fifteenth summit of the South Asian Association for Regional Cooperation (SAARC), held in August 2008, members discussed a range of themes relating to developing cooperation in the region, including a partnership for growth for the peoples of South Asia, energy, the environment, water resources, poverty alleviation and the development of information and communications technology. A key area of discussion was the growing food security crisis in the region. Member States convened a meeting of the Ministers of Agriculture of SAARC in India in November 2008 and agreed to implement a regional strategy to promote greater cooperation with the international community to ensure food availability and nutritional security in the region.

33. Another notable regional meeting was convened under the second summit of the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) on 13 November 2008 in New Delhi. The summit focused on strengthening cooperation in various sectors, with leaders noting the progress that had been made in the negotiations for a free trade agreement on trade in goods. Summit leaders also welcomed the establishment of the Centres for Energy and for Weather and Climate in India and the BIMSTEC Cultural Industries Observatory in Bhutan. Also finalized at the summit was the BIMSTEC Convention on Combating International Terrorism, Transnational Organized Crime and Illicit Drug Trafficking.

Latin America and the Caribbean

34. In Latin America and the Caribbean, while economic growth and regional integration have generally expanded, the region as a whole has witnessed a negative growth rate of 0.3 per cent in 2009, the region's first contraction after six years of continuous, positive growth, according to the Economic Commission for Latin America and the Caribbean. Unemployment in the region rose to almost 9 per cent from nearly 7.5 per cent in 2008, linked to increased poverty rates across the region. The negative effects of the financial crisis are reflected in declining international trade and falling commodity prices, such that the region's terms of trade will decrease by 15 per cent. There will also be a sharp drop in exports affecting in particular countries with open economies such as Central American nations and Mexico.

35. The Caribbean Community (CARICOM) has played an important role in the promotion of regional cooperation and economic integration. CARICOM member States agreed to establish a common passport in order to make intraregional and international travel easier for their citizens. The passports are also thought to save additional costs in coordinating security, safety and economic trade among member States. In 2005, Suriname became the first full member State to officially launch the new bloc CARICOM passport, with improved security features. Countries in the Caribbean region acknowledge that the region's growing economic challenges require greater cooperation and integration; however, the current global recession has brought many difficulties. Nevertheless, Caribbean leaders are hoping to have the CARICOM single market economy fully implemented by 2015.

36. Interestingly, the downward economic trends have had differential impacts within different regions, as evidenced by the activities in Africa, Asia, the Arab States region and Latin America. While in most cases regional and subregional cooperation efforts have gained momentum, in others, such as that of Latin America, efforts at integration have stalled somewhat owing to lack of resources and external support. In that regard, outside partners, including the Group of Eight, OECD countries and other contributors, have an important role to play in encouraging and supporting horizontal South-South and triangular cooperation arrangements.

D. More inclusive partnerships forged

37. The international community is increasingly using South-South cooperation as a practical framework and a flexible modality for partnership-building and collaboration towards achieving internationally agreed development goals, including the Millennium Development Goals. Numerous national Governments, regional and

intergovernmental groupings, multilateral organizations and donor agencies have intensified support for South-South cooperation through establishing or supporting innovative South-to-South, East-South, public-private and North-South-South triangular partnership arrangements.

38. The India, Brazil and South Africa (IBSA) Facility for Poverty and Hunger Alleviation, facilitated by the Special Unit for South-South Cooperation, continued to provide strong support to expanded and innovative interregional South-South partnerships. With each of the three countries committing $1 million every year, the Facility was able to support a number of Millennium Development Goal-focused and results-based initiatives in other developing countries. One successful initiative that captured the attention of mainstream media involved the transfer of management knowledge and technology on community-based waste management from Brazil to Haiti. The initiative helped to improve the environment; created jobs, especially for women; increased household incomes; and reduced gang violence.

39. Both the African continent and the Gulf countries face food security issues, which has spurred greater cooperation among countries in those regions. In the Gulf, the population is expected to increase from 30 million in 2000 to 60 million by 2030. Gulf countries have begun to invest in the development of infrastructure in Africa to enable farmers to move beyond subsistence farming through the facilitation of access to much-needed supplies and infrastructure. In Ethiopia, for example, only 14.8 per cent of the arable land is cultivated, and talks are ongoing about Gulf countries further exploring the potential of that country under the auspices of the Gulf Research Centre, a Middle Eastern think tank. The Gulf-Africa Strategy Forum, held in Cape Town in February 2009 and hosted by the Gulf Research Centre, has identified areas of future cooperation between the two regions, including through trade and investment as well as political and security partnerships.

40. The International AIDS Vaccine Initiative has also facilitated South-South and triangular cooperation by supporting innovative scientific research in the development of a preventive AIDS vaccine through a network of 11 research institutions and scientists in India, Kenya, Rwanda, South Africa, Uganda and Zambia. Clinical trials and epidemiological studies are being carried out in those partner countries. In addition, the initiative has assisted in the building of 14 state-of-the-art laboratories in the South as well as in the provision of grants to assist biotechnology companies in those countries to develop their scientific capacity and promote knowledge-sharing in this vital area of development.

41. During the reporting period, an increased number of traditional donor countries also took various innovative approaches, including third-country training, joint initiatives among themselves or with South-South pivotal countries, aimed at benefiting other developing countries.

42. Japan has been a major supporter and contributor to triangular cooperation, both bilaterally and multilaterally, following the approval of its 2003 Official Development Assistance Charter, which identifies triangulation as an effective aid modality. Through its third-country training programme in Malaysia, it provided training to professionals from Asia and Africa in areas such as computer networking, technology, welding, the servicing of electrical and electronic systems, diplomacy and the development of small and medium-sized enterprises. The Japan-Singapore Partnership Programme for the Twenty-first Century also provided a

number of country-focused and regionally focused training courses for other developing countries on topics such as disaster management, infrastructure improvement for the information technology industry, trade negotiation, banking and finance development.

43. Funded by Sweden, South Africa provided police training and capacity development in Rwanda. Sweden also supported the process of transferring Chilean solutions on social inclusion, gender equity, information and communications technology, wood-processing technology and solid-waste management to other countries in Central and South America. In May 2007, France provided funding, through the United Nations Development Programme (UNDP) and with the African Union, for a needs assessment conducted by Thailand on avian influenza in Egypt at the request of the Government of Egypt.

44. Sponsored by the Department for International Development of the United Kingdom of Great Britain and Northern Ireland, senior members of the Ministries of health, education, defence and the economy of the Russian Federation together with leading representatives from civil society, HIV/AIDS self-support groups, the media, the Russian Orthodox Church, the Duma (parliament), medical doctors and State-funded drug researchers and producers of antiretroviral therapy, met their Brazilian counterparts during a whirlwind study tour of the world-renowned response of Brazil to HIV/AIDS.

45. The United States Agency for International Development sponsored an innovative triangular partnership alliance with South Africa and the United States-based Case Foundation to deliver to Malawi, Mozambique, Swaziland, Zambia and some East and West African countries information on clean water and health to combat the spread of HIV/AIDS, with the aim of reaching 10 million people by the end of 2009. The technology involves the construction of "play pumps" — a merry-go-round water pump in schoolyards or near schools — that produces up to 1,400 litres of water per hour from a depth of 40 metres.

46. Finland supported Chile in helping Nicaragua develop its institutional and technical capacities in small- and medium-scale furniture production. The cost of the programme was shared by Chile (7 per cent), Finland (49 per cent) and Nicaragua (44 per cent). Japan (through the Japan International Cooperation Agency), Germany (through the German Agency for Technical Cooperation), Sweden and the European Union have cooperated with Chile as a provider of technical assistance to Latin American and Caribbean countries.

47. With the support of Brazil, Canada, Italy, Spain and the International Fund for Agricultural Development, Argentina extended assistance to other developing countries. One example of such triangular cooperation is the Haiti Food Security Project, aimed at training rural Haitian women in sustainable agriculture and food security. In principle, third-party funding can account for no more than 30 per cent of project funding, with the remaining 70 per cent coming from Argentina.

48. Canada, Norway, Spain, the United States of America, the International Labour Organization and the World Bank have supported the triangular initiatives of Brazil focusing on Portuguese-speaking countries in Africa and Latin America as well as initiatives in Haiti (with Argentina) and Timor-Leste, and covering such areas as vaccinations, school feeding, reforestation, malaria eradication and waste collection.

Brazil has also set up a triangular development cooperation project to train nationals of Angola and Guinea-Bissau in public administration.

49. A number of Development Assistance Committee donors have established trilateral partnership agreements with Singapore to provide assistance to neighbouring countries, such as Cambodia, the Lao People's Democratic Republic, Mongolia, Myanmar and Viet Nam. Singapore is the first South-East Asian country to work with the European Commission on a technical assistance programme in Cambodia, the Lao People's Democratic Republic and Viet Nam, and since 2004, a total of 114 officials have been trained in areas such as finance, trade promotion, World Trade Organization matters and information technology.

50. With financial and technical support from Canada, France, Germany and Japan as well as the African Development Bank, the Arab Bank for Economic Development in Africa, the European Union, the Islamic Development Bank, the Organization of the Petroleum Exporting Countries Fund for International Development, UNDP and the World Bank, Tunisia has provided technical assistance and capacity-development expertise mainly to Arab and African countries. Areas covered include basic and reproductive health services, agriculture, fisheries, navigation and shipbuilding mechanics, vocational training, tourism, public administration and teaching.

E. Multilateral support intensified

51. Under the guidance of the High-level Committee on South-South Cooperation of the General Assembly, the United Nations system has prioritized South-South cooperation as a key modality for promoting collaborative initiatives at the national, regional and interregional levels. With the Special Unit for South-South Cooperation acting as system-wide coordinator and focal point, United Nations bodies and agencies, including regional commissions, have played an important role in supporting innovative, demand-driven South-South cooperation initiatives.

52. In August 2008, the Secretary-General issued a policy decision requiring all heads of the United Nations system organizations, specialized agencies, funds and programmes and regional commissions to give priority to promoting South-South cooperation. The decision, inter alia, requires the Special Unit to work closely with the High-level Task Force on the Global Food Security Crisis, the Climate Change Support Team, the Joint United Nations Programme on HIV/AIDS and other United Nations focal points on South-South cooperation to develop a concise, action-oriented, inter-agency collaborative framework in the areas of food security, climate change and HIV/AIDS, taking into account existing initiatives, the specific strengths of the United Nations system and the time frames for implementing the framework.

53. In 2008, the Executive Committee on Economic and Social Affairs included South-South cooperation as a priority in its work. As such, the Executive Committee principals have committed to institutionalizing South-South cooperation in their regular development activities and through joint efforts so as to maximize the benefits of such cooperation for meeting the internationally agreed development goals, including the Millennium Development Goals. The United Nations Development Group, chaired by the UNDP Administrator, has also taken the decisive measure of incorporating support for South-South cooperation as a requirement in the United Nations guidelines for formulating the common country

assessment and the United Nations Development Assistance Framework and for implementing regional and country-level programmes. UNDP has taken the lead by adopting South-South cooperation as one of the principal approaches for capacity development in its Strategic Plan, 2008-2011.

54. The Department of Economic and Social Affairs has also intensified its work in South-South cooperation, especially under the auspices of the Development Cooperation Forum. Building on work begun in 2006, it launched the Forum in 2008. In addition to broadening international discourse on South-South cooperation, the Forum has deepened understanding with regard to increasing flows of South-South development assistance.

55. At its World Conference on Higher Education in Paris in 2009, the United Nations Educational, Scientific and Cultural Organization called for greater collaboration between African universities and issued a communiqué to support the acceleration of the establishment of quality-assurance systems through an Association of African Universities initiative. The Conference highlighted the importance of addressing the broad range of challenges in African higher education relating to gender and racial inequality, the brain drain and a chronic lack of resources.

56. The International Labour Organization is working to promote specific South-South cooperation projects and activities that contribute to the prevention and elimination of the worst forms of child labour in accordance with the international obligations of each country. With the Government of Brazil, it has initiated South-South cooperation programmes to address the problem of child labour by financing projects in Portuguese-speaking countries in Africa. In 2008, Brazil committed to a donation of $300,000 to the regular budget supplementary account of the International Labour Organization, becoming the first donor country from the South to do so. The contribution by Brazil will support field programmes in Latin America and the Caribbean.

57. The Network of Centres of Excellence of UNCTAD supports technology and knowledge transfer to Africa through the training of scientists and technology experts. It benefits from a large audience in Africa's scientific community and a database of more than 400 scientists, researchers and various contacts in the academic world as well as an expanded web platform that facilitates interaction among members of the Network and participants in the training courses. To date, 100 young scientists, engineers and academics from 25 African countries have benefited from training sessions organized in China, Egypt, India, South Africa and the United Republic of Tanzania. The Network plans to extend its activities to enhance policymaking capacities in science, technology and innovation for development by supporting a network of policymakers in the area of science, technology and innovation.

58. The United Nations Environment Programme has made significant efforts to integrate South-South cooperation as a development and capacity-development mechanism into the sharing of information and the formation of strategic partnerships. In its decision 24/12 of 9 February 2007, the organization adopted South-South cooperation as a primary means of strengthening and enhancing its larger environmental mandate in the achievement of sustainable development. It also has adopted the Bali Strategic Plan for Technology Support and Capacity-building, which places South-South cooperation at the centre of its framework.

F. Innovative support facilities and financing mechanisms established

59. Increasingly, the United Nations system and other multilateral organizations have endeavoured to devise various demand-based South-South support facilities and innovative financing mechanisms to enable developing countries and their development partners to more systematically share knowledge, exchange experiences, transfer expertise and technologies, and pool the resources that are most needed in order for them to deal effectively with country-specific and common development challenges, including meeting the Millennium Development Goals.

60. Within its mandate and cooperation frameworks, the Special Unit for South-South Cooperation has made deliberate efforts to institutionalize its global and multilateral South-South support architecture. The transformation of its Web of Information for Development into a virtual Global South-South Development Academy has enabled more development partners to jointly identify, produce and disseminate Southern development solutions and expertise for mutual learning and capacity development. More than 100 scalable Southern development solutions were produced in partnership with all solution-providing countries, relevant United Nations organizations and other partners. They cover such areas as community-based disaster prevention, preparedness and recovery; the empowerment of local communities; innovative public-private partnerships; the role of taxation in inclusive development; effective hydrocarbon management; information and communications technology for human development; the creative economy for development; and the social impact of remittances. In December 2008, the Special Unit formally launched the first Global South-South Development Expo in conjunction with the fifth United Nations Day for South-South Cooperation. More than 100 partner countries and United Nations and other entities made contributions, and over 60 Southern development solutions relevant to achieving the Millennium Development Goals were showcased. In addition, 30 new rosters of Southern experts were created, bringing the total number of such rosters to 69.

61. With $15 million in parallel funding by China and a $300,000 contribution from the Fund for International Development of the Organization of the Petroleum Exporting Countries, as well as technical and in-kind contributions from a large number of developing countries, national chambers of commerce, industrial associations and United Nations entities, the Special Unit successfully launched, in 2008, a market-based, transparent South-South knowledge and technology transaction mechanism: the South-South Global Assets and Technology Exchange. The system enables public and private partners to list, seek, match and raise resources for the transfer of technologies aimed at improving food security, public health, housing for the poor, energy efficiency and climate change as well as at cultivating the potential of the creative economy for development. About 80 developing countries have already sought to access its services, with 21 of them having succeeded in making demand-supply matches on the exchange.[17] One technology transfer from China to Ethiopia, which involves turning agricultural wastes such as straw into low-cost, durable building materials, helped Ethiopia to reduce the construction cost of building materials by 50 to 60 per cent while

[17] They include Cameroon, China, Côte d'Ivoire, Egypt, Ethiopia, the Islamic Republic of Iran, Italy, Kenya, Mali, Mexico, Morocco, Nepal, Niger, Nigeria, Pakistan, Papua New Guinea, Senegal, the United Republic of Tanzania, Viet Nam and Zambia.

generating an annual output of around $50 million and creating more than 12,000 employment opportunities in the country.

62. In 2008, the World Bank Group launched the South-South Experience Exchange Facility to share experiences in managing commodity windfalls, developing efficient tax systems, adapting to new technologies, selecting public investment projects with high economic and social returns, reforming pensions and creating social safety nets that benefit the poor.[18] The first project under the Facility has involved the replication in Africa of the success achieved by India in dairy production: the dairy industry in India is now the world's largest producer of milk and dairy products. At the request of the Government of the United Republic of Tanzania, the Indian model is now being introduced in Africa, with funding for visits to India by Tanzanian dairy farmers and others from Ethiopia and Uganda provided by the trust fund. Seven donors — China, Denmark, India, Mexico, the Netherlands, Spain and the United Kingdom — have pledged to contribute $10 million to the Facility over three years.

63. In 2009, the Asian Development Bank and the Inter-American Development Bank agreed to exchange information and access to their trade finance programmes through a trade finance facilitation programme. Both banks have played a significant role in promoting sustainable development, economic growth and integration in their respective regions. The agreement between the two banks will link more than 100 financial institutions in order to bolster trade and increase commercial flows between the two regions to promote economic growth, job creation and poverty reduction.

64. Under its Special Programme for Food Security, FAO has effectively used its special South-South Cooperation agreement as an effective instrument to enable technicians and experts from emerging economies to work directly with farmers in other developing countries and share their experience and skills. As of mid-2007, 39 agreements had been signed and over 1,400 experts and technicians had worked in the field in various food security projects.[19] In March 2009, China agreed to make available to FAO a $30 million trust fund to support other developing countries in improving their agricultural productivity towards the achievement of the Millennium Development Goals.

65. To implement decision 24/12 and the Bali Strategic Plan, the United Nations Environment Programme has adopted a medium-term strategy for 2010-2013. This has resulted in the adoption of a broad strategic approach that incorporates the holding of internal and external consultations to advance the integration of South-South cooperation arrangements as well as the establishment of strategic and operational guidelines for the integration of South-South cooperation into existing and proposed activities. The United Nations Environment Programme is also working to develop a South-South clearing house mechanism to facilitate the identification, development and promotion of opportunities for collaboration and cooperation between countries and regions of the South in support of their environmental and sustainable development activities.

[18] http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:21936982~pagePK:34370~piPK:34424~theSitePK:4607,00.html.

[19] See http://www.fao.org/spfs/south-south-spfs/ssc-spfs/en/.

66. During the reporting period, the United Nations Industrial Development Organization established South-South Industrial Cooperation Centres in India and China, with plans to establish similar ones in other developing countries. These centres have been designed to promote South-South industrial collaboration, investment and trade among Southern countries by sharing knowledge, experience and expertise as well as technology and resources.

67. Through the South-South Cooperation Fund, the United Nations Educational, Scientific and Cultural Organization launched the South-South Cooperation Programme for Education in 2007 to support developing countries in their efforts to meet the goal of universal primary education and other Millennium Development Goals through the exchange of experience, knowledge and good practices on a South-South and a triangular basis. In May 2008, it established the International Science, Technology and Innovation Centre for South-South Cooperation. Based in Kuala Lumpur, the Centre is working to create a network of national centres of excellence, promoting collaboration through research initiatives, technology transfer and the development of industries in fields such as information technology, biotechnology and nanotechnology.[20]

III. Main observations and recommendations

A. Observations

68. South-South cooperation is particularly crucial in addressing the impact of the current economic crisis on the progress made in the achievement of the internationally agreed development goals, including the Millennium Development Goals by 2015. According to a number of experts, the financial crisis has in some areas slowed, and in others stymied, prospects for the achievement of those goals.[21] It is estimated that, owing to the economic crisis, in 2009, 55 million to 90 million more people will live in extreme poverty than had been anticipated before the global economic recession. The global poverty rate is likely to be reduced by one half by 2015; however, several regions, such as sub-Saharan Africa and Southern Asia, will likely fall short of the goal owing to the economic crisis. Moreover, higher food prices have led to an increase in the prevalence of hunger and malnutrition, with 17 per cent of the population suffering from hunger in 2008, up from 16 per cent in 2006. Despite the dire economic pronouncements, however, world leaders, meeting in New York on 25 September 2008, renewed their commitments to achieving the Millennium Development Goals by 2015. While progress has been slow and even slightly reversed in some areas, there also have been remarkable achievements in key areas of development in the past decade.

69. The growing trend among Southern countries to look not only to reducing poverty within their own borders but also to raise the development prospects of other developing countries is exhibited across a range of countries, including strong emerging economies and other South-South pivotal countries. The international community is thus increasingly using South-South cooperation as a practical framework and a flexible modality for partnership-building and collaboration

[20] http://www.unesco.org/science/psd/thm_innov/unispar/malaysia_coop.shtml.

[21] For the full 2008 report on the Millennium Development Goals, see http://www.un.org/millenniumgoals/pdf/The%20Millennium%20Development%20Goals%20Report%202008.pdf.

towards achieving internationally agreed development goals, including the Millennium Development Goals.

70. It is clear that cooperation on a South-South and a triangular basis presents a benefit to countries regardless of their level of development and is also a necessity for countries that wish to address successfully a host of transnational challenges. The current period has, in most cases, encouraged the consolidation of international, regional and national commitments to development cooperation through South-South and triangular partnerships despite changes in the economic prospects of developed and developing countries alike.

B. Recommendations

71. To prevent the loss of the development achievements gained over the past decade, there is a need to translate the renewed commitments made by the international community in support of South-South and triangular cooperation for development into action. This would necessitate the establishment of a mechanism that monitors the progress and delivery of those commitments while ensuring that they are oriented towards achieving the internationally agreed development goals, including the Millennium Development Goals. The High-level Committee on South-South Cooperation of the General Assembly is well placed to undertake such a role.

72. As global commitments increase, so too must multilateral support for South-South-based development, which requires closer inter-agency collaboration, including the systematic sharing of best practices to enhance synergy, complementarity and coherence of support. It is recommended that the United Nations Inter-agency Focal Points Network for South-South Cooperation, facilitated by the Special Unit for South-South Cooperation, be further strengthened in order to achieve this objective.

73. It is most encouraging that partners in the development community have used South-South cooperation as a practical framework for collaboration to form innovative partnerships towards achieving development goals, but there is a need for greater collaboration and knowledge-sharing among partners and agencies involved in South-South development practices. It is therefore recommended that the partners who pioneered these innovative partnerships share their experiences and best practices in order to scale up the impact on the achievement of internationally agreed development goals, including the Millennium Development Goals, with the facilitation of the Special Unit for South-South Cooperation.

74. The creation of various demand-based South-South support facilities and innovative financing mechanisms by many United Nations organizations, specialized agencies, funds and programmes, including the regional commissions, to more systematically share knowledge, exchange experiences, transfer expertise and technologies, and pool resources to face development challenges, including meeting the Millennium Development Goals, is a very promising development in the multilateral system. It is recommended that, to leverage one another's unique strengths, members of the organizations that have pioneered these innovative facilities and funding mechanisms share their experiences and best practices regularly in order to forge closer collaboration.

75. As the cost-effectiveness of South-South initiatives is well established and since the need for South-South interventions continues to expand, consistent and reliable financing is increasingly critical. In addition to traditional bilateral and regional flows of aid and in response to the overwhelming needs of developing countries, it is recommended that countries contribute to the United Nations Fund for South-South Cooperation to ensure sufficient funding for South-South projects and initiatives.